



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.

This page is intentionally left blank

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.

This page is intentionally left blank

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.

This page is intentionally left blank

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

This page is intentionally left blank

Article 9 –Not Used

This page is intentionally left blank

Article 10 – Area Committees

The Authority does not currently have Area Committees.

This page is intentionally left blank

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.

This page is intentionally left blank

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.

This page is intentionally left blank

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.

This page is intentionally left blank

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
------------	--

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
Planning, etc. applications Determine an application for: <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 	The power shall only be exercised where the application: <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	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	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	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: <ul 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. |
|-----|--|

(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.

APPOINTMENTS AND REMUNERATION COMMITTEE (made up of 9 members)
Function
Be responsible for the appointment and dismissal of any Executive Officers
<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>
Determine the conditions on which the Executive Officers hold office, including deciding matters relating to the early retirement of those officers.
Consider the Pay Policy Statement and refer it to Council for approval
Determine policies relating to employee remuneration

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.	

This page is intentionally left blank

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			i			
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			i			
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	i					
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	i		i	i		CEO
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	i	i				All
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			i			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		i				

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	i	i				
Respond to all other consultations						CEO or DCEO
Implement the Authority's Risk Management Policy & Strategy	i	i	i			All
Finance						
Prepare and consult on the Authority's Budget and recommend to Council for approval			i			
Receive and consider quarterly budget monitoring reports			i			
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	i		i	i		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.			i			All
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	i	i				

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			i			
Agree use of charging and trading powers		i	i			
Set fees and charges		i				
Agree increase in fees and charges by more than inflation			i			
Agree increase in fees and charges in line with inflation				i		All
Assets and Property						
Agree asset management plan			i			
Make compulsory purchase order (CPO)			i			
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			i			Director of Finance and Assets, Director of Major Developments & Regeneration,

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
						Head of Construction or DCEO ⁶
Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £500,000		i				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

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
						Construction or Head of Housing Services
Approval of Shared Ownership Disposals including initial sales, staircasing, resale or staircasing our		i				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			i			
Dispose of or exchange land or property with a value exceeding £10,000 and not exceeding £500,000 including at an undervalue		i				
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		i				

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
interfere with the proper management of the land/retained land or its investment value						
Apply to Secretary of State to dispose of housing land under Housing Act 1985		i				
Authorise the disposal of or change the use of (appropriate) public open space			i			
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			i			
Allocate and re-allocate all Authority owned assets, land and property between service areas	i					
Authorise a change in use of Authority owned land or property		i				
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.			i			
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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value exceeding £250,000			i			
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value exceeding £10,000 and not exceeding £250,000		i				
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			i			
Grants						
Agree service level agreements and service level agreement funding in respect of voluntary organisations			i			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations exceeding £50,000 pa			i			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £50,000 pa		i				
Service Delivery						
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		i				

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
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 Tewkesbury Borough Council	All
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			i			
Arrange for any Executive Function to be undertaken by another local authority ⁷			i			
Arrange for any Executive Function to be exercised jointly ⁸ with one or more local authorities through joint arrangements ⁹			i			
Appoint member to a joint committee which undertakes Executive Functions and decide on the	i					

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
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	i					
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	i					
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		i				
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			i			
Approve waiver to Contract Rules where the value does not exceed £100,000 ¹²						All

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 of 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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
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			i			
Establish a partnership's annual work programme and make in year changes	i	i				
Implement an agreed policy or strategy						All
Neighbourhood Plans						
Designate neighbourhood area/forum			i			
Submission of a neighbourhood development plan and a neighbourhood development order		i				Director of Planning and Building Control
Approval of a neighbourhood development plan/neighbourhood development order for referendum			i			
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		i ¹⁵	i			All

¹³ In accordance with Contract Rules

¹⁴ As defined in Article 13.

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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Make urgent Key Decision ¹⁶	i		i			CEO
Respond to call-in of a decision ¹⁷	i	i	i	i	i	All
Respond to a petition to Council		i				
Appoint and remove Cabinet Members and decide their portfolios	i					
Establish Cabinet Committee or working group			i			
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	i					
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		i	i			
Undertake such specific Executive Function as may be allocated from time to time by the Leader	i	i	i			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			i			
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by a Cabinet Member		i				
Undertake any Executive Function which is delegated to an Officer where the Cabinet Member directs it		i				

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
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			i			
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to a Cabinet Member		i				
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	i					
Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next Cabinet meeting.	i					
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	i					
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	

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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
					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		

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 	

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.

Seconder's 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).

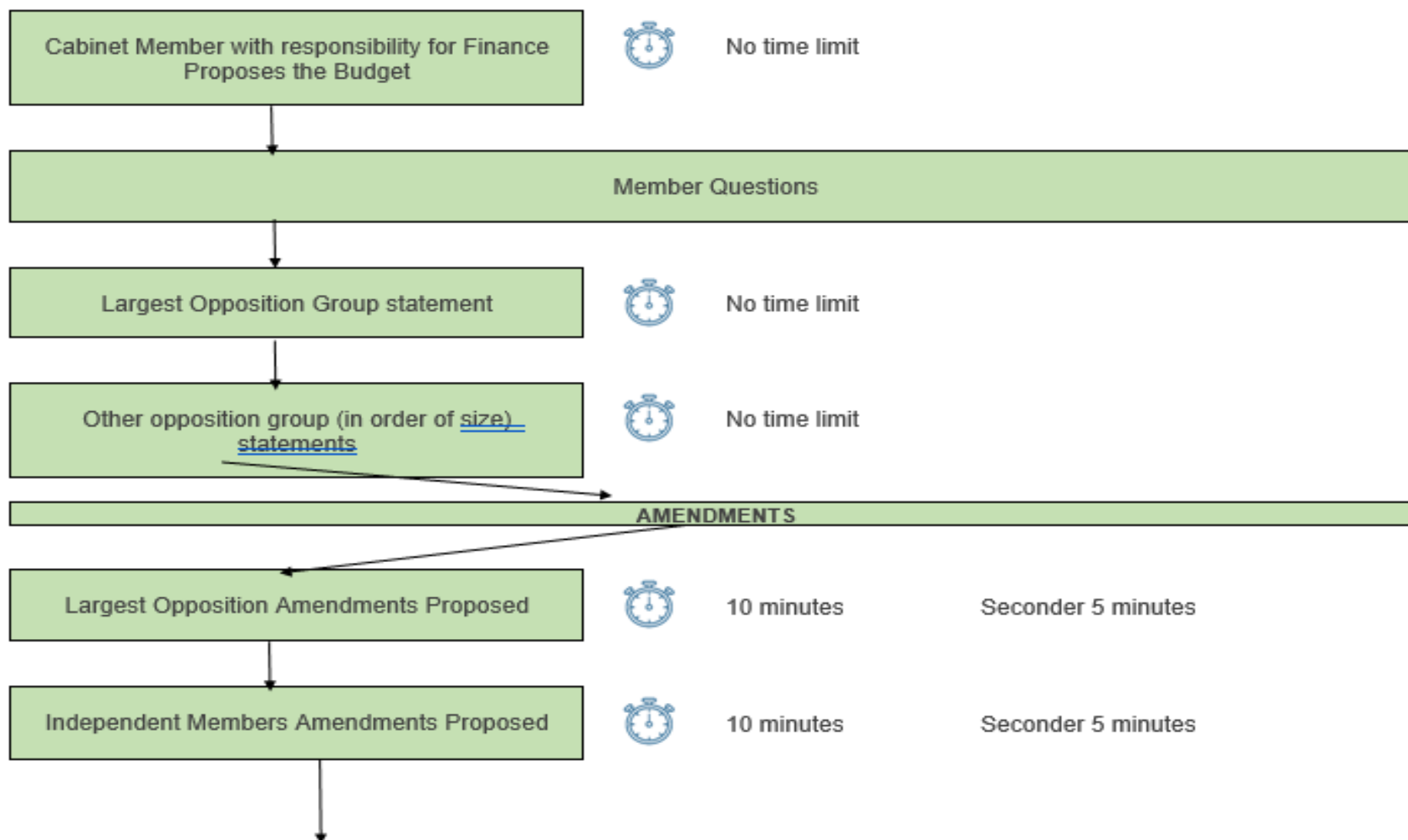
3. Amendments

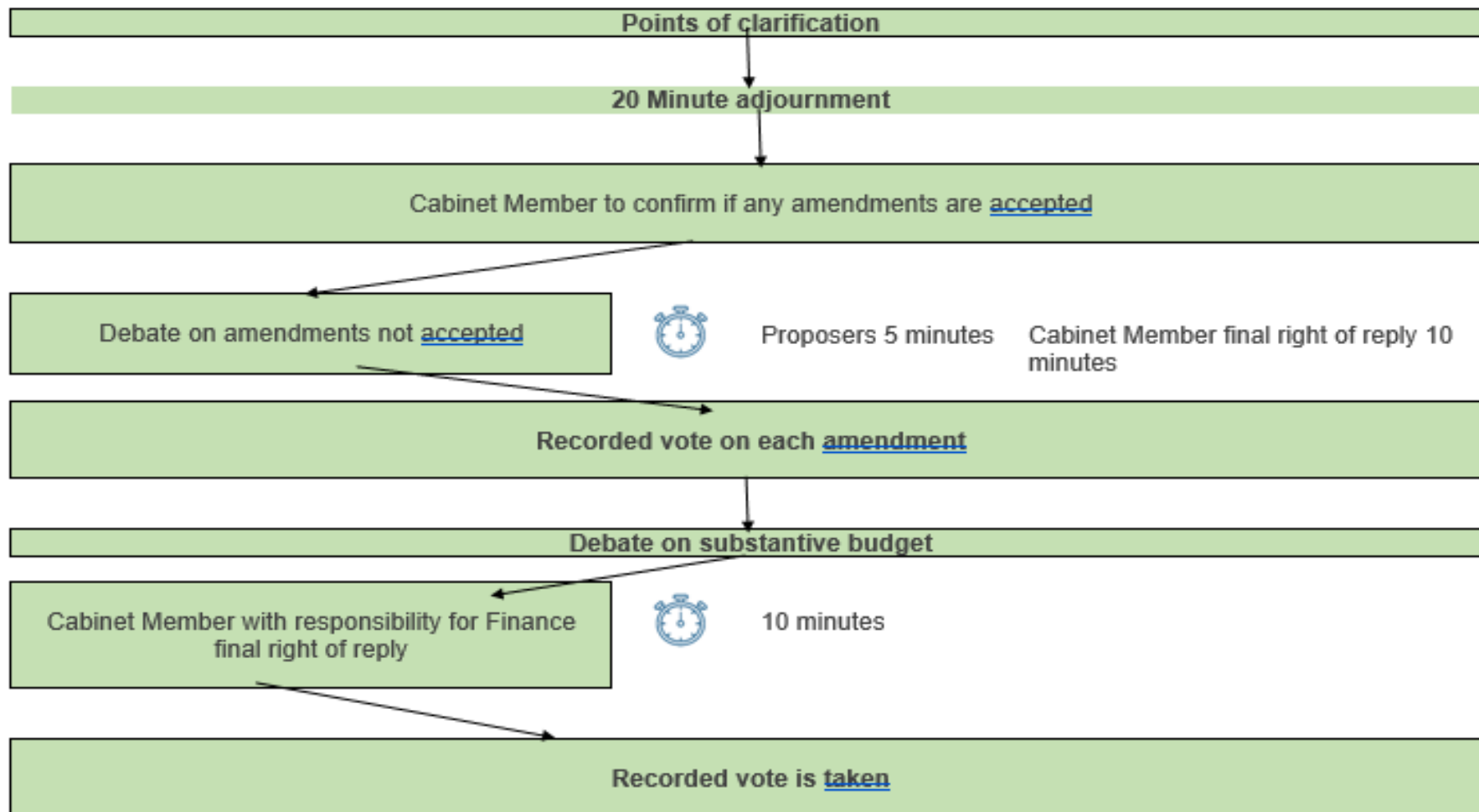
- 3.1 Amendments to the budget motion may have significant implications for the calculations used in producing the budget recommendation and for the level of Council Tax and/or the Council's reserves. Therefore, any Member wishing to move an amendment which affects any of the proposals in the budget 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





Part 4B: Cabinet Procedure Rules

Rule 1 General

Application and amendment of rules

- 1.1 These Procedure Rules shall apply to the Cabinet and any Committee of the Cabinet 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 Leader acting as Chair of the Cabinet shall be guided in their construction and application of these Rules by those definitions and by the Monitoring Officer or their representative.
- 1.3 The headings and sub-headings do not form part of these Rules.
- 1.4 The ruling of the Leader at a Cabinet meeting or otherwise as to the construction or application of any of these Rules shall not be challenged at any meeting of the Council.
- 1.5 In applying these Rules the Leader may, having taken the advice of the Monitoring Officer or their representative, exercise their discretion in a fair and equitable manner to allow greater informality in respect of any meeting or item under discussion.

Service of notices and documents

- 1.6 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

- 1.7 These Rules (subject to the exceptions in Rule 1.8 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.
- 1.8 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](#)
- 1.9 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 Executive decisions and functions

General

2.1 The Leader will determine who will make Executive decisions. Executive Functions can, if duly authorised by the Leader, be discharged by:

- 2.1.1 the Cabinet as a whole;
- 2.1.2 a Committee of the Cabinet;
- 2.1.3 a Cabinet Member
- 2.1.4 an Employee;
- 2.1.5 Joint Arrangements; or
- 2.1.6 another local authority

Delegation of Executive Functions

2.2 At the Annual and Selection Council, or if that is not possible, at the next available meeting of the Council at which the matter can be placed on the agenda, the Leader will present to the Council, for inclusion in the Council's scheme of delegation at [Part 3B](#) of this Constitution, a written record of delegations made by them which will contain:

- 2.2.1 the names, addresses and wards of the Cabinet Members;
- 2.2.2 the extent of any authority delegated to Cabinet Members individually, including details of any limitation on their authority;
- 2.2.3 the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of the Cabinet Members they appoint to them;
- 2.2.4 the nature and extent of any delegation of Executive Functions to any other authority or any Joint Arrangements and the names of any Cabinet Members appointed to any Joint Committee; and
- 2.2.5 the nature and extent of any delegation of Executive Functions to Employees with details of any limitation on that delegation and the title of the Employee to whom the delegation is made.

2.3 The Leader may amend the scheme of delegation relating to Executive Functions at any time following Annual and Selection Council by giving written notice to the Proper Officer. The notice to the Proper Officer must set out the extent of the proposed amendment and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Proper Officer will forthwith inform every Councillor and the Monitoring Officer shall amend the Constitution accordingly.

- 2.4 Where the Leader wants to withdraw or amend the delegation to a Committee of the Cabinet or Joint Arrangement, they must give written notice to its chair or its secretary.

Sub-delegation of executive functions

- 2.5 Where the Cabinet, a Committee of the Cabinet or a Cabinet Member is responsible for an Executive Function, they may delegate further to Joint Arrangements or to an Employee.
- 2.6 Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, the Cabinet may delegate further to a Committee of the Cabinet or to an Employee.
- 2.7 Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Employee.
- 2.8 Even where Executive Functions have been delegated, that fact does not prevent the discharge of the delegated function by the person or body who delegated them.
- 2.9 Where the number of Cabinet Members having an interest that under the Code of Members Conduct prevents the Cabinet, by virtue of it not having a quorum, from making a decision on the matter, the decision shall be made by the Board acting collectively by a majority and the Cabinet shall, in the scheme of delegations, make provision for this. The Board, before making a decision under this rule, shall consult with the Mayor and the Chair of the Appropriate Overview and Scrutiny Committee and shall take into account their opinions both as to the merit of the decision to be taken and as to who might also be consulted before the decision is taken. Such consultation might include consultation with the Council or a Committee.

Working Groups

- 2.10 The Cabinet may, for the purposes of advising it on any of its functions, appoint working groups comprising Members and Officers. The Cabinet may ask third parties to participate in working groups. The Cabinet may authorise working groups to report to Cabinet or Committees. Unless the Cabinet so requires, working groups need not be politically proportionate.

Attendance by other Members

- 2.11 Subject to the Access to Information Rules, a Member who is not a Cabinet Member may attend and, with the approval of the Leader, speak (but not vote) at a meeting of the Cabinet. This Rule 2.11 is without prejudice to Rule 13.4 (Questions on item under discussion).

Conflicts of Interest

- 2.12 Where the Leader or a Cabinet Member has a conflict of interest, this should be dealt with as set out in the Code of Members Conduct in [Part 5A](#) of the Council Constitution.
- 2.13 If the exercise of an Executive Function has been delegated to a Committee of the Cabinet, a Cabinet Member or an Employee, and a conflict of interest arises, the function will be exercised by the person or body by whom the delegation was made or, if this is not possible, as set out in the Code of Members Conduct in [Part 5A](#) of the Council Constitution.

Rule 3 Meetings of the Cabinet

Time and place

- 3.1 The Cabinet will meet at least 12 times a year at times to be determined by the Leader at the start of the new Municipal Year. The Leader or any three Members may in writing require the Proper Officer to call a Cabinet Meeting at any other time and, in default, may call it.
- 3.2 The Cabinet will meet at the Council's main offices or such other venue as notified by the Proper Officer.

Public or private meetings of the Cabinet

- 3.3 The Cabinet will determine at the beginning of each Municipal Year which of its meetings will be public meetings and which will be private meetings.

Business at Cabinet meetings

- 3.4 At each meeting of the Cabinet the following business will be conducted:
- (a) to appoint a Person Presiding if the Leader is absent;
 - (b) to approve the minutes of the last meeting;
 - (c) to receive any declarations of interest;
 - (d) receive any announcements from the Leader and the Head of Paid Service or their representative;
 - (e) to answer questions from members of the public;
 - (f) to answer questions from Members of the Council;
 - (g) deal with any business outstanding from the last Cabinet meeting;
 - (h) at the first Meeting in the Municipal Year, to determine which meetings will be private under Rule 3.3;
 - (i) to consider matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Rules or the Budget and Policy Framework Rules set out in [Part 4G](#) of this Constitution;
 - (j) to consider other matters referred to the Cabinet by the Council;

- (k) to consider reports from Overview and Scrutiny Committees;
 - (l) to consider reports from Joint Arrangements; and
 - (m) to consider matters set out in the agenda for the Meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Rules set out in [Part 4E](#) of this Constitution
 - (n) consider any item which, by reason of special circumstances to be specified in the minutes of the meeting, the Leader considers should be considered at the meeting as a matter of urgency.
- 3.5 The order of business in Rule 3.4, 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 Leader if they consider the variation to be desirable for the efficient despatch of the Cabinet's business, or convenient, including the avoidance or duplication or repetition of matters under consideration; or
 - (b) a resolution of the Cabinet moved and put without comment.

Rule 4 Quorum

- 4.1 The quorum of a Cabinet Meeting shall be one third of the whole number of its Members or three Members whichever is the greater.
- 4.2 During any meeting if the Leader 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 Leader. If they do not fix a date, the remaining business will be considered at the next Meeting.

Rule 5 Duration of meetings

- 5.1 Unless the majority of Members present vote for the Meeting to continue, any Meeting 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 Leader. If they do not fix a date, the remaining business will be considered at the next Meeting.

Rule 6 Consultation

- 6.1 All reports to the Cabinet on proposals relating to the Budget or Policy Framework must contain details of consultation with stakeholders and relevant Overview and Scrutiny Committees and the outcome of that consultation. The level of consultation shall be appropriate to the matter under consideration.
- 6.2 The Cabinet will, as appropriate, be expected to consult with and receive reports from any forums which it has acknowledged or established to assist and inform it in undertaking its executive

Rule 7 Items and reports

- 7.1 The Leader may put on the agenda of any Cabinet meeting any item which they wish, whether or not the item has been delegated to the Cabinet, a Committee of the Cabinet, a Cabinet Member or an Employee. The Proper Officer will comply with the Leader's requests in this respect.
- 7.2 Any Cabinet Members may require the Proper Officer to ensure that an item is placed on the agenda of the next available Meeting of the Cabinet. If they receive such a request the Proper Officer will comply.
- 7.3 There will be a standing item on the agenda of each Meeting of the Cabinet for matters referred by Overview and Scrutiny Committees.
- 7.4 Any Councillor may request the Leader to put an item on the agenda of a Cabinet Meeting for consideration. If the Leader agrees, the item will be considered at the next available Meeting of the Cabinet. The notice of the Meeting will name the Councillor who asked for the item to be considered. The Councillor may attend the Meeting, whether or not it is a public Meeting, and they will be given the opportunity to speak for not more than three minutes at the beginning and, with the Leader's consent, the end of the Cabinet's consideration of the item.
- 7.5 The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting in pursuance of their statutory duties or any power under this Constitution and may require the Proper Officer to call such a meeting.
- 7.6 Where any two of the Head of Paid Service, the Section 151 Officer and the Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no Meeting of the Cabinet within an appropriate timescale to deal with the matter, they may also require that a meeting be convened within three calendar weeks at which the matter will be considered.

Rule 8 Employees reporting directly to cabinet

- 8.1 Where an Officer submits a report or recommendation directly to a Cabinet (other than jointly with the Leader, a Cabinet Member or Committee chair):
- (a) that report/recommendation shall be treated as if it was the recommendation of a Cabinet Member the adoption of which had been formally moved and no further motion is required for it to be received and approved by the Cabinet;
 - (b) if an amendment is moved to any recommendation of the Officer, the Leader may, if they consider it appropriate, invite the Officer to reply to the amendment immediately before the question is put.

- 8.2 Where an Officer submits a written report directly to Cabinet 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 have the right to reply to the amendment immediately before the question is put.
- 8.3 When the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or any other Officer is submitting a report or making a recommendation to a Cabinet 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 9 Cabinet chair and vice-chair

- 9.1 The Leader shall preside as chair at all Meetings at which they are present. If they are absent, or has resigned, the Deputy Leader shall preside. If both of them are absent a Person Presiding shall be appointed under Rule 10 and no business (other than the appointment of a Person Presiding) shall be transacted at that Meeting unless there is a Person Presiding.
- 9.2 The Leader shall at their discretion take all such steps as they consider necessary to ensure the proper and orderly conduct of Meetings.
- 9.3 The ruling of the Leader on any matter in relation to Rule 14 (Rules of Debate) shall be final.
- 9.4 Where the Deputy Leader or a Person Presiding is presiding over the meeting pursuant to Rule 9 they will assume all powers and duties of the Leader or chair of the meeting under Rule 9.1 including the right to a second or casting vote.

Rule 10 Appointment of person presiding

- 10.1 For the purposes of appointing a Person Presiding under Rule 9.1, 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.
- 10.2 The motion, and any amendments, shall be put to the Meeting in accordance with the normal rules for electing the chair or making appointments, as appropriate.
- 10.3 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 11 Previous decisions and motions

Motion to rescind a previous decision

- 11.1 Subject to Rule 11.3, a motion or amendment to rescind a decision made at a Meeting of the Cabinet 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 the number of Members that constitute the quorum.

Re-introduction of business

- 11.2 Subject to Rule 11.3, no matter which has been decided by the Cabinet in the same way twice within a period of twelve months shall again be submitted for the Cabinet's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

Exception

- 11.3 Rules 11.1 and 11.2 do not apply where the matter is placed before the Committee upon the recommendation of the Cabinet or Council or where the Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Cabinet to reconsider the matter.

Rule 12 Minutes and reports

Signing the minutes

- 12.1 The Leader 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.

Confidential and Exempt Information

- 12.2 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.
- 12.3 The Monitoring Officer shall investigate any alleged breach of Rule 12.2 and shall submit a report on the results of their investigation as appropriate to:
- the Standards Committee;

- an Ordinary or Extraordinary meeting of the Cabinet; or
 - an Ordinary or Extraordinary meeting of the Council
- within 21 days of their supplying a copy of the report to all Members.

- 12.4 No discussion shall take place during any Council Meeting, Cabinet meeting or Committee meeting (apart from Standards 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 13 Public and member questions

General

- 13.1 Any person living, working or studying in the Borough of Cheltenham, or a Borough Council elected Member may at Cabinet Meetings ask written questions of the Leader about any matter falling within the terms of reference of the Cabinet or a Cabinet Member about any matter falling within functions delegated to them.

Order of questions

- 13.2 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

- 13.3 Subject to Rule 13.4 and 13.4A, 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 and confirm whether the questioner intends to attend the Meeting.

Questions on item under discussion

- 13.4 Any Council Member may ask the Leader or the relevant Cabinet Member any question without notice in relation to an item under discussion at a Cabinet meeting subject to the Leader (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 13.6 below.

Urgent Questions on items appearing on the agenda

- 13.4A Where in the Leaders opinion a matter to be discussed is of significant public interest, they may, at their discretion, dispense with the 7th working day deadline referred to in 13.3 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.

Limit on number of public questions

- 13.5 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

- 13.6 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 Cabinet 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 Cabinet in the previous six months; or
 - (e) requires the disclosure of Confidential or Exempt information.
- 13.7 The Proper Officer will inform the Leader or relevant Cabinet Member of every question they reject and the reasons for rejection.

Record of questions

- 13.8 The Proper Officer will ensure each question is open to public inspection and will immediately send a copy of the question to the Leader and Cabinet Member as appropriate. Rejected questions will include reasons for rejection.
- 13.9 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 Meeting.

Procedure at the Cabinet Meeting

- 13.10 The chair 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.
- 13.11 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

- 13.12 A questioner who has put a question in person may also put one supplementary question without notice to the Leader or Cabinet Member. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 13.5 above.
- 13.13 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 Council or another Committee

- 13.14 Unless the Leader 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 Council or an appropriate Committee. Once moved, such a motion will be voted on Without Comment.

Time for questions

- 13.15 No more than 20 minutes shall be set aside at any Cabinet Meeting for the posing and answering of questions under this Rule.
- 13.16 If any questions remain to be dealt with after the end of the 20 minute period, the Leader 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.
- 13.17 Any question which cannot be dealt with during question time will be dealt with by a written answer.

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 Rules of debate (see motion flowchart – Appendix A)

Members to address the chair

- 14.1 A Cabinet Member shall speak only when called to do so by the Leader. A Member shall address the Leader only.

Members' Speeches

- 14.2 When a Member is speaking other Members shall remain silent, unless raising a point of order or a personal explanation.

Content of speeches

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

Right to require motion in writing

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

Amendments to motions

- 14.5 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.

- 14.6 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.
- 14.7 If an amendment is not carried, other amendments to the original motion may be moved.
- 14.8 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.
- 14.9 After an amendment has been carried, the Leader 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

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

Right of reply

- 14.11 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.
- 14.12 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.
- 14.13 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

- 14.14 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 14.15.

Procedural Motions

- 14.15 The following procedural motions may be moved without notice:

- (a) 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 sub-Committee or working group arising from an item on the agenda for the Meeting;
- (f) to receive reports of or adopt recommendations of Committees, sub-Committees, working groups, Council or Officers and any resolutions following from them;
- (g) to make any decision arising out of or directly relevant to an item on the agenda 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 exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named or to exclude them from the meeting under Rule 19.

Motion to proceed to the next business

14.16 If a procedural motion "to proceed to the next business" is moved and the Leader considers that the item has been sufficiently discussed, they 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 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 shall lapse.

Motion that the question be now put

14.17 If a procedural motion "that the question be now put" is moved and the Leader considers that the item has been sufficiently discussed, they must put the procedural motion to the vote without comment. If the procedural vote is passed, the Leader 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

14.18 If a procedural motion to adjourn the debate or to adjourn the meeting is moved and the Leader 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.

14.19 If a motion to adjourn the debate or meeting is accepted the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.

14.20 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

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

Personal explanation

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

Rule 15 Voting

Majority

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

Casting vote

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

Show of hands/Electronic voting system

- 15.3 Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5 below the Leader 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

- 15.4 The vote will take place by secret ballot if the number of Cabinet Members constituting the quorum at the Meeting demand it, provided that any Cabinet Member who wishes to have the way their vote is cast recorded in the minutes of the Meeting may cast their vote under Rule 15.6 below and not by ballot. The Leader will announce the numerical result of the ballot immediately the result is known.

Recorded vote

- 15.5 The vote will be recorded if the number of Cabinet Members constituting the quorum at the Meeting demand it. The names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Right to require individual vote to be recorded

- 15.6 Where any Cabinet Member requests it, immediately after the vote is taken, their vote will, unless it is a recorded vote under Rule 15.5, be

recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 15.7 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 Leader 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.
- 15.8 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 Leader shall have a second or casting vote
- 15.9 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.
- 15.10 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 16 Exclusion of the public

- 16.1 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 17 (Disorderly Conduct).

Rule 17 Prevention of disorderly conduct

Members

- 17.1 If the Leader is of the opinion that any Cabinet Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Leader, 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

17.2 A direction made under Rule 17.1 above may also be made by the Meeting on a motion proposed and put Without Comment.

The Public

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

General

- 17.4 In the event of general disturbance in any part of the room where any Meeting is being held which is open to the public, the Leader shall order that part to be cleared and may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.
- 17.5 The powers conferred by this Rule are in addition to any other powers which the Leader may lawfully exercise.

This page is intentionally left blank

Part 4C: Committee Procedure Rules

Rule 1 General

Application and amendment of rules

- 1.1 These Procedure Rules shall apply to all Council Committees and sub-Committees except Overview and Scrutiny Committees 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 Chair shall be guided in their construction and application of these Rules by those definitions and by the Monitoring Officer or their representative.
- 1.3 Any reference in these Rules to 'Committee' shall include 'sub-Committee'.
- 1.4 The headings and sub-headings do not form part of these Rules.
- 1.5 The ruling of the Chair at a Committee meeting or otherwise as to the construction or application of any of these Rules shall not be challenged at any meeting of the Council.

Chair discretion as to formality

- 1.6 In applying these Rules the Chair may, having taken the advice of the Monitoring Officer or their representative, exercise their discretion in a fair and equitable manner to allow greater informality in respect of any meeting or item under discussion.

Service of notices and documents

- 1.7 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

- 1.8 These Rules (subject to the exceptions in Rule 1.9 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.
- 1.9 The following Rules are not capable of suspension:
[Rule 15.6 Right to require individual vote to be recorded](#)
[Rule 19 Prevention of Disorderly Conduct](#)

- 1.10 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 Establishment of and appointment to committees and sub-committees

General

- 2.1 Every Committee set up under Articles [6](#), [8](#) and [10](#) of this Constitution shall continue to discharge the functions committed to it until the next Annual and Selection Meeting of the Council or until the Council resolves otherwise.
- 2.2 Subject to Section 102(5) of the Local Government Act 1972 (Councillor not re-elected to cease to be a Member of a Committee) and Rule 2.5 every person appointed as a voting Member of a Committee and every person appointed to exercise other functions in relation to a Committee shall continue as such until the next Annual and Selection Meeting of the Council or until the appointment is terminated, whichever is the earlier.
- 2.3 Whenever:
- (a) the Council is required to review the allocation of seats on Committees between Political Groups, or
 - (b) the Council resolves to carry out such a review, or
 - (c) a Committee is required to review the allocation of seats on a Sub-Committee between Political Groups.

the Proper Officer shall report to the Council or Committee what allocation of seats would, in their opinion, best meet the requirements of the Local Government and Housing Act 1989 and regulations made thereunder.

- 2.4 Following a report under Rule 2.3, the Council or Committee, as the case may be, shall determine the allocation of seats to Political Groups.
- 2.5 Whenever an appointment of a voting Member of a Committee falls to be made in accordance with the wishes of a Political Group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, the Proper Officer shall make or terminate the appointment accordingly.

Sub-Committees

- 2.6 A Committee may, for the purposes of carrying out or advising it on any of its functions, appoint a Sub-Committee, and may appoint the Chair and Vice-Chair of the Sub-Committee.

Working Groups

- 2.7 A Committee may, for the purposes of advising it on any of its functions, appoint working groups comprising Members and Officers. The Committee may ask third parties to participate in working groups. The Committee may authorise working groups to report to Cabinet or other Committees. Unless the Committee so requires, working groups need not be politically proportionate.

Attendance by other Members

- 2.8 Subject to the Access to Information Rules, a Member who is not a Member of the Committee may attend and, with the approval of the Chair, speak (but not vote) at a meeting of the Committee. This Rule 2.8 is without prejudice to [Rule 13.4](#) (Questions on item under discussion).

Rule 3 Substitute members

General

- 3.1 For each Committee where substitution is applicable, substitutes are permitted in respect of each political group, and across non-aligned Members as if those members were to have formed a grouping. Substitution is only permitted within each political grouping, or within the non-aligned Members (i.e. a Member of a political group cannot substitute for a Member of another political group or a non-aligned Member; and a nonaligned Member cannot substitute for a Member of a political group). Substitute Members may attend meetings in that capacity only:
- (i) to take the place of the ordinary Member for whom they are the designated substitute;
 - (ii) where the ordinary Member will be absent for the whole of the meeting (N.B. the substitution shall apply for the whole of the meeting, even if the meeting is adjourned and reconvened on another date); and
 - (iii) they have notified a Proper Officer of the intended substitution at least two hours before the start of the Meeting. Notification of substitution can be made by the Member appointing the substitute, the substitute Member, or in the case of a substitution within a political group by the Leader or Deputy Leader of the relevant political group

Number

- 3.2 For each Committee where substitution is applicable, there shall be no maximum number of substitutes in respect of each political group or non-

aligned Members at any meeting, provided that the general requirements in respect of Committee memberships are not infringed.

Powers and Duties

- 3.3 Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting. Substitute Members shall abide by any voting restrictions which would have applied to the Member for whom they are substituting.

Regulatory Committees

- 3.4 No substitute Members shall participate in a Regulatory Committee until they:
- have undergone the same initial training as required of full Members of the Committee;
 - have participated in all on-going training as provided for full Members of the Committee; and their compliance with these conditions has been certified by the relevant Officers.

Rule 4 Date time and place of meetings

- 4.1 The date, time and place of Ordinary Meetings will be determined by the Proper Officer after such consultations as they consider necessary and as notified in the agenda for the meeting.
- 4.2 The Proper Officer may call an Extraordinary Meeting whenever they consider it appropriate and shall call an Extraordinary Meeting when requested to do so by:
- (a) the Committee Chair;
 - (b) the Council by resolution;
 - (c) the Audit, Compliance and Governance Committee;
 - (d) the Monitoring Officer, or
 - (e) a majority of the Directors.

Rule 5 Order of business

- 5.1 Ordinary Meetings will:
- (a) choose a person to preside if the Chair and Vice Chair are absent;
 - (b) approve as a correct record any minutes of the last or previous Meetings of the Committee;
 - (c) receive any declarations of interest from Members;
 - (d) receive any announcements from the Chair and the Head of Paid Service or their representative;
 - (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 Committee meeting;
 - (h) receive, consider and determine reports, recommendations and briefing papers from the Leader, Cabinet, Council, Committees, sub-Committees and working groups;
 - (i) receive, consider and determine reports and briefing papers from Officers, including reports from the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer
 - (j) consider any other business specified in the agenda for the meeting;
 - (k) consider any item which, by reason of special circumstances to be specified in the minutes of the Meeting, the Chair considers should be considered at the Meeting as a matter of urgency.
- 5.2 The order of business in Rule 5.1, 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 Chair if they consider the variation to be desirable for the efficient despatch of the Committee's business, or convenient, including so as to avoid duplication or repetition of matters under consideration; or
 - (b) a resolution of the Committee moved and put Without Comment.
- 5.3 An Extraordinary Meeting will:
- (a) choose a person to preside if the Chair and Vice-Chair 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 Chair considers should be considered at the Meeting as a matter of urgency.
- 5.4 The Chair 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 Committee business.
- 5.5 An Extraordinary Meeting may approve any minutes of the last or previous Meetings.

Rule 6 Quorum

- 6.1 Subject to Rule 6.2 below, the quorum of a Meeting shall be one third of the whole number of its Members or three Members whichever is the greater.
- 6.2 The quorum of for a Planning Committee Meeting shall be one half of the whole of its Members.
- 6.3 During any meeting if the Chair 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 Chair. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

Rule 7 Duration of meetings

- 7.1 Unless the majority of Members present vote for the Meeting to continue, any Meeting 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 Chair. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

Rule 8 Employees reporting directly to committee

- 8.1 Where an Officer submits a report or recommendation directly to a Cabinet (other than jointly with the Leader, a Cabinet Member or Committee chair):
- (a) that report/recommendation shall be treated as if it was the recommendation of a Cabinet Member the adoption of which had been formally moved and no further motion is required for it to be received and approved by the Cabinet;
 - (b) if an amendment is moved to any recommendation of the Officer, the Leader may, if they consider it appropriate, invite the Officer to reply to the amendment immediately before the question is put.
- 8.2 Where an Officer submits a written report directly to Cabinet 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 have the right to reply to the amendment immediately before the question is put.
- 8.3 When the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or any other Officer is submitting a report or making a recommendation to a Cabinet 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 9 Committee chair and vice-chair

- 9.1 If the Council has not made the appointment, the Committee Chair and Vice-Chair shall be elected from the Members of the Committee.
- 9.2 If the Council made the appointment, any subsequent changes to the Committee Chair and/or Vice-Chair during the period up to the next Selection Council shall be made by Members of that committee.
- 9.3 A Committee Chair or Vice-Chair will remain in office until:
- (a) they resign,
 - (b) they are ineligible to act in that capacity by virtue of law
 - (c) if they were appointed by Council, Council terminates their appointment,
 - (d) if they were appointed by Committee, Committee or Council terminates their appointment
- 9.4 The Chair shall preside at all Meetings at which they are present. If they are absent, or has resigned, the Vice-Chair shall preside. If both of them are absent a Person Presiding shall be appointed under Rule 10 and no business (other than the appointment of a Person Presiding) shall be transacted at that Meeting unless there is a Person Presiding.
- 9.5 The Chair shall at their discretion take all such steps as they consider necessary to ensure the proper and orderly conduct of Meetings.
- 9.6 The ruling of the Chair on any matter in relation to [Rule 14](#) (Rules of Debate) shall be final.
- 9.7 Where the Vice-Chair or a Person Presiding is presiding over the meeting pursuant to 9.3 they will assume all powers and duties of the Chair for control and regulation of the meeting including the right to a second or casting vote.

Rule 10 Appointment of person presiding

- 10.1 For the purposes of appointing a Person Presiding under [Rule 9.3](#), 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 be entitled to vote.
- 10.2 The motion, and any amendments, shall be put to the Meeting in accordance with the normal rules for electing the Chair or making appointments, as appropriate.
- 10.3 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 11 Previous decisions and motions

Motion to rescind a previous decision

- 11.1 Subject to Rule 11.3, a motion or amendment to rescind a decision made at a Meeting of the Committee 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 the number of Members that constitute the quorum or, in the case of Planning Committee, at least five Members.

Re-introduction of business

- 11.2 Subject to Rule 11.3, no matter which has been decided by the Committee in the same way twice within a period of twelve months shall again be submitted for the Committee's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

Exception

- 11.3 Rules 11.1 and 11.2 do not apply where the matter is placed before the Committee upon the recommendation of the Cabinet or Council or where the Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Committee to reconsider the matter.

Rule 12 Minutes and reports

Signing the minutes

- 12.1 The Chair 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

- 12.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, the next following Ordinary Meeting will be treated as a suitable meeting for the purposes of paragraph 12.1 for signing of minutes.

Confidential and Exempt Information

- 12.3 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.

- 12.4 The Monitoring Officer shall investigate any alleged breach of Rule 12.3 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 Committee; or
 - an Ordinary or Extraordinary meeting of the Council
- within 21 days of them supplying a copy of the report to all Members.
- 12.5 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 13 Public and member questions

General

- 13.1 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 Chair about any matter falling within the terms of reference of the Committee other than, in relation to a Regulatory Committee, a question concerning an application to be considered or determined by that Committee.

Order of questions

- 13.2 Questions will be divided into 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

- 13.3 Subject to Rule 13.4 and 13.4A, 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 and confirm whether the questioner intends to attend the Meeting.

Questions on item under discussion

- 13.4 Any Council Member may ask the Chair any question without notice in relation to an item under discussion at Committee subject to the Chair (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 13.6 below.

Urgent Questions on items appearing on the agenda

- 13.4A Where in the Chairs 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 13.3 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

- 13.5 No person may submit more than two questions (including sub-questions) at any one Meeting and no more than two questions (including sub-questions) may be asked on behalf of one organisation.

Scope of questions

- 13.6 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 Committee 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 Committee in the previous six months; or
 - (e) requires the disclosure of Confidential or Exempt information.
- 13.7 The Proper Officer will inform the Committee chair of every question they reject and the reasons for rejection.

Record of questions

- 13.8 The Proper Officer will ensure each question is open to public inspection and will immediately send a copy of the question to the Chair. Rejected questions will include reasons for rejection.
- 13.9 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 Committee meeting

- 13.10 The chair 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.
- 13.11 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

- 13.12 A questioner who has put a question in person may also put one supplementary question without notice to Chair. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 13.5 above.
- 13.13 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 Council or another Committee

- 13.14 Unless the Chair 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, Council or an appropriate Committee. Once moved, such a motion will be voted on Without Comment.

Time for questions

- 13.15 No more than 20 minutes shall be set aside at any Committee Meeting for the posing and answering of questions under this Rule.
- 13.16 If any questions remain to be dealt with after the end of the 20 minute period, the Chair 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.
- 13.17 Any question which cannot be dealt with during question time will be dealt with by a written answer.

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 Rules of debate (see motion flowchart – Appendix A)

Members to address the chair

- 14.1 A Member shall speak only when called to do so by the Chair. A Member shall address the Chair only.

Members’ Speeches

- 14.2 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.

Content of speeches

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

Right to require motion in writing

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

Amendments to motions

- 14.5 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.

- 14.6 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.
- 14.7 If an amendment is not carried, other amendments to the original motion may be moved.

- 14.8 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.
- 14.9 After an amendment has been carried, the Chair 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

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

Right of reply

- 14.11 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.
- 14.12 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.
- 14.13 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

- 14.14 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 14.15.

Procedural Motions

- 14.15 The following procedural motions may be moved without notice:
- (a) 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 sub-Committee or working group arising from an item on the agenda for the Meeting;
 - (f) to receive reports of or adopt recommendations of Committees, sub-Committees, working groups, Council or Officers and any resolutions following from them;
 - (g) to make any decision arising out of or directly relevant to an item on the agenda 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 exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named or to exclude them from the meeting under Rule 19.

Motion to proceed to the next business

14.16 If a procedural motion "to proceed to the next business" is moved and the Leader considers that the item has been sufficiently discussed, they 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 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 shall lapse.

Motion that the question be now put

14.17 If a procedural motion "that the question be now put" is moved and the chair considers that the item has been sufficiently discussed, they must put the procedural motion to the vote without comment. If the procedural vote is passed, the chair 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

14.18 If a procedural motion to adjourn the debate or to adjourn the meeting is moved and the Chair 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.

14.19 If a motion to adjourn the debate or meeting is accepted the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.

- 14.20 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

- 14.21 A Member may raise a point of order at any time and the Chair 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

- 14.22 A Member may, with the consent of the Chair, 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 15 Voting

Majority

- 15.1 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

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

Show of hands/Electronic voting system

- 15.3 Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5 below the Chair 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

- 15.4 The vote will take place by secret ballot if the number of Members constituting the quorum at the 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 15.6 below and not by ballot. The Chair will announce the numerical result of the ballot immediately the result is known.

Recorded vote

- 15.5 The vote will be recorded if the number of Members constituting the quorum at the Meeting demand it. The names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Right to require individual vote to be recorded

- 15.6 Where any Member requests it, immediately after the vote is taken, their vote will, unless it is a recorded vote under Rule 15.5, be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 15.7 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 Chair 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.
- 15.8 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 Chair shall have a second or casting vote
- 15.9 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.
- 15.10 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 16 Exclusion of the public

- 16.1 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 17 (Disorderly Conduct).

Rule 17 Prevention of disorderly conduct

Members

- 17.1 If the Chair is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Chair, 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
- 17.2 A direction made under Rule 17.1 above may also be made by the Meeting on a motion proposed and put Without Comment.

The Public

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

General

- 17.4 In the event of general disturbance in any part of the room where any Meeting is being held which is open to the public, the Chair shall order that part to be cleared and may adjourn the meeting for 15 minutes or such period as shall seem expedient to them.
- 17.5 The powers conferred by this Rule are in addition to any other powers which the Chair may lawfully exercise.

This page is intentionally left blank

Part 4D: Overview and Scrutiny Rules

Rule 1 General

Application and amendment of rules

- 1.1 These Procedure Rules shall apply to the Overview and Scrutiny Committee ('the O&S Committee') and, unless the context otherwise requires, its sub-Committee(s) and may only be amended or revoked by resolution of 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 Chair shall be guided in their construction and application of these Rules by those definitions and by the Monitoring Officer or their representative.
- 1.3 The headings and sub-headings do not form part of these Rules.
- 1.4 The ruling of the Chair at a meeting of the O&S Committee or a sub-Committee as to the construction or application of any of these Rules shall not be challenged at any meeting of the Authority.

Chair discretion as to formality

- 1.5 In applying these Rules the Chair may, having taken the advice of the Monitoring Officer or their representative, exercise their discretion in a fair and equitable manner to allow greater informality or to facilitate an investigation in respect of any meeting or item under discussion.

Service of notices and documents

- 1.6 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

- 1.7 These Rules (subject to the exceptions in Rule 1.8 below) may only be suspended by Council and only to the extent permitted by law and only after the advice of the Monitoring Officer has been obtained.
- 1.8 The following Rules are not capable of suspension:
- Rule 25.6 Right to require individual vote to be recorded
 - Rule 29 Prevention of Disorderly Conduct

- 1.9 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 Establishment of and appointment to the overview and scrutiny committee, sub-committees and scrutiny task groups

Membership

- 2.1 All Councillors except the Leader and Cabinet may be Members of O&S Committee. No Member may be involved in scrutinising a decision with which they have been directly involved.

General

- 2.2 O&S Committee shall continue to discharge the functions set out in Part 3 of the Constitution until Council resolves otherwise.
- 2.3 Subject to Section 102(5) of the Local Government Act 1972 (Councillor not re-elected to cease to be a Member of a Committee) and Rule 2.6 every person appointed as a voting Member of the O&S Committee and every person appointed to exercise other functions in relation to the Committee shall continue as such until the next Annual and Selection Meeting of Council or until the appointment is terminated, whichever is the earlier.
- 2.4 Whenever:
- (a) Council is required to review the allocation of seats on the O&S Committee between Political Groups, or
 - (b) Council resolves to carry out such a review, or
 - (c) O&S Committee is required to review the allocation of seats on a sub-Committee between Political Groups.

the Proper Officer shall report to Council or O&S Committee what allocation of seats would, in their opinion, best meet the requirements of the Local Government and Housing Act 1989 and regulations made thereunder.

- 2.5 Following a report under Rule 2.4, Council or O&S Committee, as the case may be, shall determine the allocation of seats to Political Groups.
- 2.6 Whenever an appointment of a voting Member of O&S Committee falls to be made in accordance with the wishes of a Political Group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, the Proper Officer shall make or terminate the appointment accordingly.

Sub-Committees

- 2.7 O&S Committee may, for the purposes of carrying out or advising it on any of its functions, appoint one or more sub-Committees, and may, but need not, appoint the Chair and Vice-Chair of the sub-Committee(s).

Scrutiny Task Groups

- 2.8 O&S Committee or the Proper Officer (in consultation with the Committee Chair and Vice-Chair) may, for the purposes of advising on any of the Committee functions, appoint one or more Scrutiny Task Groups (STGs) comprising non-Cabinet Members and Officers. Subject to Rule 2.11, STGs will report to the Committee (or its sub-Committee(s) if so directed by the Committee). The Committee may, but need not, appoint a Chair and Vice-Chair of a STG.
- 2.9 STGs may co-opt external persons to assist in undertaking their tasks.
- 2.10 Unless O&S Committee so requires, STGs need not be politically proportionate.
- 2.11 The Budget STG may (in consultation with the O&S Committee Chair and Vice-Chair) report direct to Cabinet and, if it does so, a copy of the report must also be sent to the next Ordinary O&S Committee meeting.

Attendance by other Members

- 2.12 Subject to the Access to Information Rules, a Member who is not a Member of O&S Committee may attend and, with the approval of the Chair, speak (but not vote) at a meeting of the Committee. This Rule 2.12 is without prejudice to Rule 22.4 (Questions on item under discussion).

Co-Opted Members

- 2.13 O&S Committee may appoint for such period not exceeding two years:
- (a) three non-voting co-optees into membership of the Committee; or
 - (b) with the Council's consent, such greater number of non-voting co-optees as the Council determines.
- 2.14 A co-optee does not have to be a Member of the Council.
- 2.15 If a co-optee is there to represent a particular interest or organisation, O&S Committee may agree to the appointment of one substitute per interest or organisation.
- 2.16 Co-opted Members are subject to the Code of Members' Conduct.

Rule 3 Quorum

- 3.1 The quorum for O&S Committee shall be one third of its Members subject to a minimum of four where it has nine or more Members and three in any other case.

Rule 4 Appointment of chair and vice-chair

- 4.1 If Council has not made the appointment, the Chair and Vice-Chair of O&S Committee shall be elected from the Councillors who are Members of the Committee.
- 4.2 The Chair shall not be a Member of the Political Group which forms the Cabinet.
- 4.3 The O&S Committee Chair or Vice-Chair will remain in office until:
- (a) they resign,
 - (b) they are ineligible to act in that capacity by virtue of law
 - (c) if they were appointed by Council, Council terminates their appointment,
 - (d) if they were appointed by Committee, Committee or Council terminates their appointment.

Rule 5 Frequency of meetings

- 5.1 There shall be at least six Ordinary Meetings of O&S Committee in each year and the date, time and place of these meetings shall be determined by the Proper Officer in consultation with the Chair and Vice-Chair.
- 5.2 The Proper Officer may call an Extraordinary Meeting of O&S Committee whenever they consider it appropriate and shall call an Extraordinary Meeting when requested to do so by:
- (a) the Committee Chair
 - (b) any four Members of the Committee
 - (c) the Council by resolution
- 5.3 The Proper Officer shall also call a meeting of O&S Committee when required to do so for the purpose of Call-in under Rule 29.
- 5.4 An O&S sub-Committee or STG shall meet at such frequency and times as determined by their respective Chair in consultation with the Proper Officer.

Rule 6 Work programme

- 6.1 O&S Committee shall be responsible for setting its work programme or forward plan, which may include the work programme for any sub-Committee or STG, and in doing so it shall take into account the wishes of Members of the Committee who are not Members of the Political Group

which forms the Cabinet. The O&S Committee work programme shall be agreed at each Committee meeting.

Rule 7 Requests for agenda items

Members and Co-Optee requests

- 7.1 Any Member of the Authority or a co-optee of O&S Committee may request an item relevant to the functions of the Committee to be included on the agenda for the next available Meeting. Such a request must be given to the Proper Officer not later than 10.00 hours on the seventh working day before the day of the meeting. On receipt of such a request the Proper Officer will, having consulted with the Committee Chair and Vice-Chair, ensure that the item is included on the agenda for the meeting.
- 7.2 The Member or co-optee who asked for the item to be included on the agenda shall be notified of the date and time of the meeting at which it will be considered and given the opportunity to speak for no more than three minutes at the beginning of the consideration of the item. They may, with the Chair's consent speak again for no more than three minutes at the close of the discussion of the item.
- 7.3 The Committee will decide one or more of the following actions:
- (a) If the matter is a straightforward one, to resolve it at the meeting;
 - (b) To request an Officer report;
 - (c) To set up an STG to investigate and report back to the Committee or its sub-Committee;
 - (d) To make recommendations to Cabinet or Council as appropriate;
 - (e) For stated reasons, to take no further action on the request.

Council and Cabinet Requests

- 7.4 O&S Committee shall also respond, as soon as its work programme permits, to requests from the Council or the Cabinet, to review particular areas of the Authority's activity. O&S Committee shall report its findings and any recommendations back to the Council and/or the Cabinet as appropriate in accordance with Rule 10.

When an Overview and Scrutiny Committee can require a report from Cabinet

- 7.5 If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:
- (a) included in the Forward Plan; or
 - (b) the subject of the general exception procedure; or
 - (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Mayor or Deputy Mayor of the Council under Rule 13.5 of the Access to Information Procedure Rules

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members.

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

Rule 8 Councillor call for action

- 8.1 Any Member of Council shall be entitled to give notice to the Proper Officer in accordance with the Authority's Gateway Process (see Appendix C of the Constitution) that he or she wishes a local government matter to be included on the agenda for and discussed at the next available meeting of O&S Committee.
- 8.2 A local government matter is one relating to a local government function affecting the electoral ward of the Member or any person who lives or works in that ward, unless it is an excluded matter. An excluded matter is a crime and disorder matter, a planning or licensing matter, one relating to an individual where a right of appeal exists or any matter which, in the view of the O&S Committee Chair (in consultation with the Proper Officer), is vexatious, discriminatory or not reasonable to be discussed at a meeting of O&S Committee. The Member requesting the call for action must be notified in writing if it is an excluded matter.
- 8.3 The Member who submits the call for action shall have the right to attend and speak at O&S Committee when it is considered.
- 8.4 Having considered a call for action, the Committee will decide one or more of the following actions:
- (a) If the matter is a straightforward one, to resolve it at the meeting;
 - (b) To request an Officer report;
 - (c) To request the Member submitting the call for action to provide further evidence or information;
 - (d) To set up an STG to investigate and report back to the Committee or its sub-Committee;
 - (e) To make recommendations to Cabinet or Council as appropriate;
 - (f) For stated reasons, to take no further action on the call for action.

Rule 9 Policy review and development

- 9.1 The role of O&S Committee in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Rules (see Part 4G of the Constitution).
- 9.2 In relation to the development of the Authority's approach to other matters not forming part of the Budget and Policy Framework, O&S Committee may make proposals to Cabinet insofar as they relate to executive functions and Council or Committees in so far as they relate to non-executive functions.
- 9.3 Within such resources allocated to it, O&S Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. It may arrange site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- 9.4 O&S Committee may set up an STG to investigate and report back to it or an O&S sub-Committee in pursuance of policy review and development under Rule 9.

Rule 10 Reports from O&S committee and sub-committees Reports and recommendations to cabinet, council or committee(s)

- 10.1 O&S Committee or a sub-Committee may prepare a report, with recommendations, and refer it to Cabinet, Council or a Committee as appropriate.
- 10.2 If O&S Committee or sub-Committee cannot agree on one single final report, one minority report may be prepared and submitted for consideration by Cabinet, Council or Committee with the majority report. The procedure for preparing a minority report is as follows:
 - (a) one or more Members at the Meeting propose a minority report setting out the key principles and recommendations of that report;
 - (b) the Committee or sub-Committee may discuss and ask questions about the proposed report;
 - (c) the Committee or sub-Committee notes the report (no vote is required) and the Chair confirms that the minority report will be sent to Cabinet or Council alongside the main report;
 - (d) the Member(s) who proposed the report shall take responsibility for writing it up following the Meeting and in doing so shall take the advice of Officers as to formatting and implications arising.

- 10.3 When O&S Committee or a sub-Committee makes a report to Cabinet, Council or Committee, it may require the Proper Officer to publish the report and any recommendations arising from it. In that case, the Committee or sub-Committee must by notice in writing require Cabinet, Council or Committee as appropriate, within two months of the date on which it receives the report or recommendations or (if later) the notice, to:
- (a) Consider the report and any recommendations;
 - (b) Respond to the O&S Committee or sub-Committee indicating what (if any) action the Cabinet or Council proposes to take;
 - (c) Where the O&S Committee or sub-Committee has published the report or recommendations, publish the response;
 - (d) Where the O&S Committee or sub-Committee provided a copy of the report or recommendations to a Member, provide a copy of the response to that Member.
- 10.4 The publication of reports or recommendations and any responses to them is subject to the exclusion of any confidential or exempt information as defined by the Access to Information Rules (see Part 4E of the Constitution)
- 10.5 Notwithstanding the two month time limit referred to in Rule 10.3, Cabinet, Council or Committee will normally consider reports and recommendations from O&S Committee or sub-Committee at the next available meeting,
- 10.6 Reports and recommendations of O&S Committee or sub-Committee will normally be presented at Cabinet, Council or Committee by the relevant Chair or Vice-Chair or a Member nominated by the Committee or sub-Committee. The Member concerned will be entitled to participate in discussion of the report and recommendations.
- 10.7 Having considered a report made to it under Rule 9, Cabinet, Council or Committee may send a report or make recommendations back to O&S Committee or sub-Committee, in which case the Committee or sub-Committee shall consider such report or recommendations at its next available meeting.

Reports and recommendations to external bodies

- 10.8 Where O&S Committee or a sub-Committee makes a report or recommendations on a local improvement target or equivalent pursuant to a joint arrangement with a partner authority, it may by written notice require the relevant partner authority to have regard to the report or recommendations in exercising its functions.
- 10.9 Where O&S Committee or a sub-Committee makes a report or recommendations on a local crime and disorder matter within its terms of reference, it will copy the report to the County Council Community Safety O&S Committee (or equivalent), notifying them of their duty under s19 Police & Justice Act 2006 (i) to consider the report or recommendations, (ii) to respond to the Committee or sub-Committee within twenty eight

days indicating what, if any, action it proposes to take, and (iii) to have regard to the report or recommendations in exercising its functions.

Rule 11 Rights of O&S committee members to documents

- 11.1 O&S Committee has access to the Forward Plan and the Cabinet's timetable for decisions (including key decisions) and intentions for consultation.
- 11.2 In addition to their rights as Councillors, Members of O&S Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Rules (see Part 4E of the Constitution).
- 11.3 Nothing in this paragraph prevents more detailed liaison between the Cabinet and O&S Committee as appropriate depending on the particular matter under consideration.

Rule 12 Members and officers giving account

- 12.1 O&S Committee, a sub-Committee or a STG may, within its area of responsibility, scrutinise and review decisions made or actions taken in connection with the discharge of any executive or non-executive functions. To assist in undertaking this role, the relevant Chair may require the Leader, a Cabinet Member, a Committee Chair, the Chief Executive, deputy Chief Executive, a Director or, subject to a contractual duty to so do, a senior Officer in a commissioned organisation to attend before the Committee, a sub-Committee or an STG to explain in relation to matters within their remit:
 - (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy;
 - (c) the performance of their areas of responsibility
- 12.2 Where any Member or Officer is required to attend under Rule 12.1, the relevant Chair will inform the Proper Officer. Subject to Rule 12.4 the Proper Officer shall inform the Member or Officer in writing giving at least five clear working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, the Member or Officer concerned must be given at least 10 clear working days notice to allow for preparation of that documentation.
- 12.3 A Member who is required to attend a meeting under Rule 12.1 may have a personal and prejudicial interest by reason of Part 6 of the Code of Member's Conduct. In such cases the Member concerned may be present at the meeting only for the purpose of answering questions, giving evidence or otherwise providing information to the meeting. The Member concerned must during the period of their attendance at the meeting declare the existence and nature of the personal and prejudicial interest.

- 12.4 Where O&S Committee is summoned to deal with a called-in decision, any Member or Officer required to attend that Committee shall be given as much notice as is reasonably practicable.
- 12.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Proper Officer in consultation with the relevant Chair and with the Member or Officer concerned shall arrange an alternative date for attendance.

Rule 13 Invitation to stakeholders to speak/answer questions

- 13.1 O&S Committee, a sub-Committee or an STG may invite, but cannot require, people other than those people referred to in Rule 12.1 to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend.

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 Call-in

General principles

- 14.1 Call-in is the exercise of the power of O&S Committee to review a decision in respect of an executive function that has been made but not yet implemented. Once called-in, the decision cannot be implemented other than in accordance with the call-in procedures set out in this Rule 14.
- 14.2 The following types of decision can be called-in: (i) Cabinet decision; (ii) Cabinet Member decision; (iii) Officer key decision; (iv) decision made under Joint Arrangements
EXCEPT that a decision to award a contract over £100,000 which is not a key-decision or a decision to recommend to Council cannot be called-in.
- 14.3 A decision may be called in only once.
- 14.4 A request for call-in can only be made on the basis that the decision maker did not take the decision in accordance with one or more of the Principles of Decision Making as set out in Article 13 of the Constitution.

Procedure prior to call-in

- 14.5 When any decision is made by the Cabinet or a Cabinet Member or a key decision is made by an Officer, or by a joint Committee or Officer under joint arrangements, notice of the decision shall be published including, where possible, by electronic means, and shall be available at the Municipal Offices normally within two working days of being made. Copies of all such decisions will be sent to all Members of the Council at the same time as being published.
- 14.6 The notice in Rule 14.5 will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the decision has been called-in.

Procedure for calling-in

- 14.7 During the five clear working day period referred to in Rule 14.6, the Proper Officer shall call-in a decision for scrutiny by O&S Committee if so requested by its Chair or any four Members of the Council, provided that full written particulars of the reason(s) for the call-in has been received by the Proper Officer by 4.30 p.m. on the fifth clear working day.
- 14.8 The Proper Officer shall immediately notify the decision maker that a call-in request has been received. The Proper Officer shall call a meeting of the O&S Committee to be held on such date as they may determine, where possible after consultation with the O&S Chair and, in any case, the meeting shall take place within a period of ten clear working days of the receipt by the Proper Officer of a valid call-in request or such longer period as agreed by both the decision maker and the Member(s) requesting the call-in.
- 14.9 If O&S Committee does not meet in the period set out in Rule 14.8 the decision can be implemented immediately at the end of that period.
- 14.10 In the event of the Member(s) submitting the request for call-in confirming to the Proper Officer in writing that the request is withdrawn, the decision can be implemented immediately.

Procedure for scrutinising the decision

- 14.11 The Member(s) submitting the request for call-in will be expected to attend O&S Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose regarding the decision making process.
- 14.12 The decision maker (represented by the Leader or Lead Member if it is a Cabinet decision and the Committee Chair or Vice-Chair if it is a joint Committee decision) may be required to and shall be entitled to attend O&S Committee and respond to the request for call-in.

- 14.13 Having considered the facts of the call-in and having received any representations from the Member(s) who submitted the request and the decision maker, O&S Committee may either:
- (a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or
 - (b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and the O&S Committee comments will be set out in a report to be considered by the decision maker; or
 - (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from O&S Committee and decided how to proceed; or
 - (d) In exceptional circumstances (to be determined by O&S Committee and recorded in the minutes) to refer the decision to Council for review or scrutiny

- 14.14 O&S Committee may refer the call-in to a sub-Committee or a STG for consideration prior to taking action under Rule 14.13 (b)-(d) and, if so, the following shall apply:

- (a) O&S Committee shall meet to take its final decision on the call-in under Rule 14.13 not later than 20 clear working days from the date of the O&S Committee meeting arranged by the Proper Officer under Rule 14.8
- (b) The Member(s) who submitted the call-in and the decision maker (represented by the Leader or Lead Member in respect of a Cabinet decision and the Committee Chair or Vice-Chair in respect of a joint Committee) may be required and shall be entitled to attend before the sub-Committee or STG

- 14.15 On receiving a request from the Member(s) who submitted the call-in within the 20 clear working day period set out in Rule 14.14 (a), the Proper Officer may extend that period by up to an additional 10 clear working days (potentially allowing up to 30 clear working days for O&S Committee to meet to take its final decision)

- 14.16 If O&S Committee does not meet to consider the call-in within the period set out in Rule 14.14 (a) or such extension to that period as is made by the Proper Officer under Rule 14.15, the decision can be implemented immediately at the end of that period or extended period.

Review and scrutiny by Council

- 14.17 Where O&S Committee decides to refer the call-in to Council under Rule 14.13 (d), Council must consider the matter at its next available meeting

(other than an Annual or Annual and Selection Meeting) or, if the next available meeting is not due to be held within 15 clear working days of the O&S Committee meeting, at an Extraordinary Meeting to be convened by the Proper Officer within that time.

- 14.18 If Council does not meet to consider the call-in within the period set out in Rule 14.17 the decision can be implemented immediately at the end of that period.
- 14.19 If Council does meet to consider the call-in within the period set out in Rule 14.17 but defers consideration of all or part of the call-in to a future Council meeting, Council shall meet to make its final decision on the call-in within 60 clear working days of the receipt of the call-in under Rule 14.7. If Council does not meet to consider the call-in within that 60 clear working day period, the decision can be implemented immediately at the end of that period.
- 14.20 Having considered the facts of the call-in and any recommendations from O&S Committee and having received any representations from the Member(s) who submitted the request and the decision maker, Council may either:
- (a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or
 - (b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and Council comments will be set out in a report to be considered by the decision maker; or
 - (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from Council and decided how to proceed.
- 14.21 Where the call-in relates to a failure to comply with the Budget and Policy Framework Rules Council may, in addition to its powers under Rule 14.20:
- (a) amend the Budget or the Policy Framework to allow the decision to be implemented in compliance with the Budget and Policy Framework Rules,
 - (b) authorise the decision to be implemented as a departure from the Budget or the Policy Framework.

Action by the decision maker following call-in

- 14.22 On receiving a report from O&S Committee or Council, the decision maker shall consider the report and any recommendations and report to the next available O&S Committee the outcome of that consideration.

14.23 Where O&S Committee or Council proposes modifications to or an alternative to the decision that was called in, the decision maker shall either:

- (a) Confirm the called-in decision without modification; or
- (b) Confirm the called-in decision with modification; or
- (c) Rescind the called-in decision, take the alternative decision proposed, or propose a new decision.

14.24 Where the decision maker is acting under delegated powers, they may refer the report or proposals from O&S Committee or Council to the delegator to take the actions under 14.9 and 14.20 instead of the decision maker.

Call-in and Urgency

14.25 Subject to Rule 14.26, call-in does not apply to an urgent decision as defined in Article 13.

14.26 In order to rely on Rule 14.25 the decision maker must:

- (a) Obtain the prior consent of the O&S Committee Chair to the decision being treated as urgent. In the absence of the Chair, prior consent may be given by, in order, the Vice-Chair or the Group Leaders acting collectively; and
- (b) Request the Proper Officer to record in the decision, and notice by which it is made public, why in the opinion of the decision maker the decision is an urgent one and not subject to call-in.

Rule 15 Order of business

Ordinary meetings of O&S committee

15.1 Ordinary meetings will:

- (a) choose a person to preside if the Chair and Vice Chair are absent;
- (b) approve as a correct record any minutes of the last or previous meetings of the Committee or its sub-Committee(s);
- (c) receive any declarations of interest from Members;
- (d) note any substitutions and receive any whipping declarations made under Rule 3.1;
- (e) receive any announcements from the Chair and the Head of Paid Service or their representative;
- (f) receive questions from, and provide answers to, members of the public in accordance with these Procedure Rules;
- (g) receive questions from, and provide answers to, Members in accordance with these Procedure Rules;
- (h) deal with any business outstanding from the last Committee meeting;
- (i) consider any councillor calls for action or petitions;

- (j) receive, consider and determine reports, recommendations and briefing papers from the Leader, Cabinet, Council, Committees, sub-Committees, STGs and working groups;
- (k) receive, consider and determine reports and briefing papers from Officers, including reports from the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer;
- (l) consider any other business specified in the agenda for the meeting including scrutiny of executive decisions and investigations with a view to policy development;
- (m) consider and revise the work programme;
- (n) consider any item which, by reason of special circumstances to be specified in the minutes of the meeting, the Chair considers should be considered at the meeting as an urgent item.

15.2 The order of business in Rule 15.1, other than items (a) to (g), may be varied by:

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

Extraordinary Meetings of O&S Committee

15.3 An Extraordinary Meeting will:

- (a) choose a person to preside if the Chair and Vice-Chair 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 Chair considers should be considered at the Meeting as a matter of urgency.

15.4 The Chair 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 Committee business.

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

Rule 16 Duration of meeting

- 16.1 Unless the majority of Members present vote for the meeting to continue, any meeting 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 Chair. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

Rule 17 Officers reporting directly to O&S committee

- 17.1 Where an Officer submits a report or recommendation directly to O&S Committee (other than jointly with the Leader, a Cabinet Member or Committee Chair):
- (a) that report/recommendation shall be treated as if it was the recommendation of the Committee the adoption of which had been formally moved and no further motion is required for it to be received and approved by the Committee;
 - (b) if an amendment is moved to any recommendation of the Officer, the Chair may, if they consider it appropriate, invite the Officer to reply to the amendment immediately before the question is put.
- 17.2 Where an Officer submits a written report directly to O&S Committee 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 have the right to reply to the amendment immediately before the question is put.
- 17.3 When the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or any other Officer is submitting a report or making a recommendation to O&S Committee 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 18 Roles of chair and vice-chair

- 18.1 The Chair shall preside at all meetings at which they are present. If they are absent, or has resigned, the Vice-Chair shall preside. If both of them are absent a Person Presiding shall be appointed under Rule 19 and no business (other than the appointment of a Person Presiding) shall be transacted at that meeting unless there is a Person Presiding.
- 18.2 The Chair shall at their discretion take all such steps as they consider necessary to ensure the proper and orderly conduct of meetings.
- 18.3 The ruling of the Chair on any matter in relation to Rule 23 (Rules of Debate) shall be final.
- 18.4 Where the Vice-Chair or a Person Presiding is presiding over the meeting pursuant to Rule 18.1 they will assume all powers and duties of

the Chair for control and regulation of the meeting including the right to a second or casting vote.

Rule 19 Appointment of person presiding

- 19.1 For the purposes of appointing a Person Presiding under Rule 18.3, 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 be entitled to vote.
- 19.2 The motion, and any amendments, shall be put to the meeting in accordance with the normal rules for electing the Chair or making appointments, as appropriate.
- 19.3 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 20 Previous decisions and motions

Motion to rescind previous decision

- 20.1 Subject to Rule 20.3, a motion or amendment to rescind a decision made at a meeting of the O&S Committee 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 the number of Members that constitute the quorum.

Re-introduction of business

- 20.2 Subject to Rule 20.3, no matter which has been decided by O&S Committee in the same way twice within a period of twelve months shall again be submitted for the Committee's consideration with a view to the decision being rescinded or varied until six months after the second of such decisions.

Exception

- 20.3 Rules 20.1 and 20.2 do not apply where the matter is placed before O&S Committee upon the recommendation of Cabinet or Council or where the Monitoring Officer considers that for legal reasons or because of a material change of circumstances it is appropriate for the Committee to reconsider the matter.

Rule 21 Minutes and reports

Signing the minutes

- 21.1 The Chair 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

- 21.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, the next following Ordinary Meeting will be treated as a suitable meeting for the purposes of paragraph 21.1 for signing of minutes.

Confidential and Exempt Information

- 21.3 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 Authority’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.
- 21.4 The Monitoring Officer shall investigate any alleged breach of Rule 21.3 and shall submit a report on the results of their investigation as appropriate to:
- the Standards Committee;
 - an Ordinary or Extraordinary meeting of O&S Committee; or
 - an Ordinary or Extraordinary meeting of the Council

within 21 days of them supplying a copy of the report to all Members.

- 21.5 No discussion shall take place during any Council Meeting, Cabinet meeting or Committee meeting (apart from Standards Committee) concerning any alleged breach of this Rule which is being investigated by the Monitoring Officer until a report on the results of the investigation has been formally supplied to all Members.

Rule 22 Public and member questions

General

- 22.1 Any person living, working or studying in the Borough of Cheltenham, or a Borough Council elected Member may at Ordinary Meetings of O&S Committee ask written questions of the Chair about any matter falling within the terms of reference of the Committee.

Order of questions

- 22.2 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

- 22.3 Subject to Rule 22.4, a question may only be asked if notice has been given by delivering it to the Proper Officer no later than 12.00 hours on the 7th working day before the day of the meeting. Each question must give the name and address of the questioner and confirm whether the questioner intends to attend the Meeting.

Questions on item under discussion

- 22.4 Any Council Member may ask the Chair any question without notice in relation to an item under discussion at Committee subject to the Chair (after consultation with the Proper Officer) being able to disallow a question if it falls within (b-e) of Rule 22.6 below.

Number of questions

- 22.5 No person may submit more than two questions (including sub-questions) at any one Meeting and no more than two questions (including sub-questions) may be asked on behalf of one organisation.

Scope of questions

- 22.6 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 Committee 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 Committee in the previous six months; or
 - e) requires the disclosure of Confidential or Exempt information.
- 22.7 The Proper Officer will inform the Committee Chair of every question they reject and the reasons for rejection.

Record of questions

- 22.8 The Proper Officer will ensure each question is open to public inspection and will immediately send a copy of the question to the Chair. Rejected questions will include reasons for rejection.

- 22.9 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 meeting.

Procedure at the O&S Committee Meeting

- 22.10 The Chair 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.
- 22.11 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

- 22.12 A questioner who has put a question in person may also put one supplementary question without notice to Chair. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 22.6 above.
- 22.13 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 Council or another Committee

- 22.14 Unless the Chair 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, Council or an appropriate Committee. Once moved, such a motion will be voted on Without Comment.

Time for questions

- 22.15 No more than 20 minutes shall be set aside at any Committee meeting for the posing and answering of questions under this Rule.
- 22.16 If any questions remain to be dealt with after the end of the 20 minute period, the Chair 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.

- 22.17 Any question which cannot be dealt with during the time given for questions under Rules 22.15 and 22.16 will be dealt with by a written answer.

Rule 23 Rules of debate

Members to address the chair

- 23.1 A Member shall speak only when called to do so by the Chair. A Member shall address the Chair only.

Members' Speeches

- 23.2 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.

Content of speeches

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

Right to require motion in writing

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

Amendments to motions

- 23.5 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.

- 23.6 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.
- 23.7 If an amendment is not carried, other amendments to the original motion may be moved.
- 23.8 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.

- 23.9 After an amendment has been carried, the Chair 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

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

Right of reply

- 23.11 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.
- 23.12 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.
- 23.13 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

- 23.14 When a motion is under debate, no other motion may be moved except a procedural motion under Rule 23.15.

Procedural Motions

- 23.15 The following procedural motions may be moved without notice:
- (a) to elect in the event of a vacancy a Chair or Vice-Chair 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 sub-Committee or working group arising from an item on the agenda for the meeting;
 - (f) to receive reports of or adopt recommendations of Committees, sub-Committees, working groups, Cabinet, Council or Officers and any resolutions following from them;
 - (g) to make any decision arising out of or directly relevant to an item on the agenda 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 exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named or to exclude them from the meeting under Rule 28.

Motion to proceed to the next business

23.16 If a procedural motion "to proceed to the next business" is moved and the Mayor considers that the item has been sufficiently discussed, they 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 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 shall lapse.

Motion that the question be now put

23.17 If a procedural motion "that the question be now put" is moved and the Chair considers that the item has been sufficiently discussed, they must put the procedural motion to the vote without comment. If the procedural vote is passed, the Chair 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

23.18 If a procedural motion to adjourn the debate or to adjourn the meeting is moved and the Chair 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.

23.19 If a motion to adjourn the debate or meeting is accepted the item under discussion or remaining business shall stand over as uncompleted business to the next Ordinary Meeting.

23.20 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

- 23.21 A Member may raise a point of order at any time and the Chair 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

- 23.22 A Member may, with the consent of the Chair, 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 24 Voting

Majority

- 24.1 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

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

Show of hands/Electronic voting system

- 24.3 Unless a ballot or recorded vote is demanded under Rules 24.4 or 24.5 below the Chair 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

- 24.4 The vote will take place by secret ballot if the number of Members constituting the quorum at the 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 24.6 below and not by ballot. The Chair will announce the numerical result of the ballot immediately the result is known.

Recorded vote

- 24.5 The vote will be recorded if the number of Members constituting the quorum at the meeting demand it. The names for and against the motion or amendment or abstaining from voting will be taken down in writing and

entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Right to require individual vote to be recorded

- 24.6 Where any Member requests it, immediately after the vote is taken, their vote will, unless it is a recorded vote under Rule 24.6, be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 24.7 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 Chair 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.
- 24.8 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 Chair shall have a second or casting vote
- 24.9 Where more than one person is required to be appointed by the Authority 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.
- 24.10 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 25 Exclusion of the public

- 25.1 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 26 (Disorderly Conduct).

Rule 26 Prevention of disorderly conduct

Members

- 26.1 If the Chair is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Chair, 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.

26.2 A direction made under Rule 26.1 above may also be made by the meeting on a motion proposed and put Without Comment.

The Public

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

General

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

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

Rule 27 The party whip

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

Rule 28 Investigations

28.1 Where O&S Committee, a sub-Committee or a STG conducts investigations, and Members, Officers or other persons attend to give evidence, the meeting shall be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all of the Committee, sub-Committee or STG be given the opportunity to ask questions of attendees and to contribute and speak;

- (b) that those giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

This page is intentionally left blank

Part 4E: Access to Information Rules

Rule 1 Scope

- 1.1 These Rules set out the rights of the public to access the business of the Authority when conducted at Meetings (i.e. formal meetings of Council, Cabinet, committees and sub-committees) or through formal decisions made by Cabinet Members and Officers. They also set out the additional rights of Members to certain information.

Rule 2 Limitation

- 2.1 These Rules do not require the disclosure to the public or Members of Confidential or Exempt Information or limit the Authority's duties to protect certain information, including that covered by data protection legislation.

Rule 3 Right to attend and report on meetings

- 3.1 Members of the public and Members may attend all Meetings subject only to the exceptions in these Rules. When attending Meetings under this Rule, members of the public may also report on them (see Appendix E 'Guidance for the recording of Council, Cabinet and Committee Meetings')

Rule 4 Notice of meetings and forward plan

- 4.1 The Proper Officer will give at least five Clear Days notice of any Meeting by posting details of the meeting at the Authority's offices and on its website.
- 4.2 The Authority publishes a rolling Forward Plan on its website which sets out such business as is proposed to be conducted at Meetings (Council and Cabinet only). The Forward Plan includes any Key Decisions that are to be taken (see Rule 13).

Rule 5 Access to agenda and reports before the meeting

- 5.1 The Proper Officer will make copies of the agenda and reports (except those reports which contain Confidential or Exempt Information) available for public inspection at the Municipal Offices and on the Authority's website at least five Clear Days before the Meeting.
- 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 Supply of copies

- 6.1 The Proper Officer will make available to the public present at a Meeting a reasonable number of copies of the agenda and reports (excepting Confidential or Exempt Information).
- 6.2 The Proper Officer will supply to any person on payment of a charge for postage and any other administrative costs copies of:
- (a) any agenda and reports which are open to public inspection;
 - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (c) if the Proper Officer thinks fit, any other documents supplied to Members in connection with an item.

Rule 7 Access to documents after the meeting

- 7.1 The Proper Officer will make available copies of the following for six years after a Meeting:
- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes or proceedings when the Meeting was not open to the public or which disclose Confidential or Exempt Information;
 - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
 - (c) the agenda for the Meeting; and
 - (d) reports relating to items when the Meeting was open to the public.

Rule 8 Background papers

List of background papers

- 8.1 The report author shall ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
- (a) disclose any facts or matters on which the report or an important part of the report is based; and
 - (b) have been relied on to a material extent in preparing the report

but the list does not have to include published works or those documents which disclose Confidential or Exempt Information.

Public inspection of background papers

- 8.2 The Proper Officer will make available for public inspection for four years after the date of the Meeting one copy of each of the documents on the list of background papers.

Rule 9 Notice of public's rights

- 9.1 These Rules give notice of the public's rights to attend Meetings and to inspect and copy documents. A summary of these rights is included on the Authority's website.

Rule 10 Exclusion of public access to the meeting

Confidential Information – requirement to exclude public

- 10.1 The public must be excluded from Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Confidential Information would be disclosed.
- 10.2 "Confidential Information" means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order

Exempt Information – discretion to exclude public

- 10.3 The public may be excluded from Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Exempt Information would be disclosed.
- 10.4 "Exempt Information" means information falling within the categories set out in Appendix I and subject to any condition in that Appendix.
- 10.5 Where the Meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the Meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

Procedure for exclusion of public access to Cabinet meetings

- 10.6 At least twenty-eight Clear Days before the Cabinet Meeting, the Proper Officer shall:
- (a) make available at the Authority's offices a notice of intention to hold the Meeting in private, such notice to include a statement of reasons for the meeting to be held in private, and
 - (b) publish that notice on the Authority's website

- 10.7 At least five Clear Days before a private meeting, the Proper Officer shall:
- (a) make available at the Authority's offices a further notice of its intention to hold the Meeting in private,
 - (b) publish that notice on the Authority's website, and
 - (c) include that notice in the agenda for the Meeting.
- 10.8 A notice under Rule 10.7 shall include:
- (a) a statement of the reasons for the meeting to be held in private,
 - (b) details of any representations received by the Authority about why the Meeting should be open to the public, and
 - (c) a statement of the Authority's response to such representations.
- 10.9 Where the date by which a Meeting must be held makes compliance with this Rule impracticable, the Meeting may only be held in private where:
- (a) the chairman of the appropriate Overview & Scrutiny Committee; or
 - (b) if there is no such person, or if the chairman of the appropriate Overview & Scrutiny Committee is unable to act, the Chair of Council; or
 - (c) where both the chairman of the appropriate Overview & Scrutiny Committee and the Chair of Council are unable to act, the Vice Chair of Council has agreed that the Meeting is urgent and cannot reasonably be deferred.
- 10.10 As soon as reasonably practicable after agreement to hold a private meeting has been obtained under Rule 10.9, the Proper Officer shall:
- (a) make available at the Authority's offices a notice setting out the
Reasons why the Meeting is urgent and cannot reasonably be deferred; and
 - (b) publish that notice on the Authority's website.

Rule 11 Exclusion of access by the public to reports

- 11.1 If the Proper Officer thinks fit, the Authority may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

Rule 12 Working groups

- 12.1 Working groups, task groups and other bodies which are not empowered to make decisions in respect of the Authority's functions are not Meetings for the purposes of these Rules.

Rule 13 Key Decisions

Notice of Key Decision

13.1 Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) prior notice of the Key Decision has been made available for inspection at the Authority's offices and on its website;
- (b) at least twenty-eight Clear Days have elapsed since the publication of such notice; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees (if any), notice of the meeting has been given in accordance with Rule 4.

Contents of notice of Key Decision

13.2 The notice referred to in Rule 13.1 will include:

- (a) the matter in respect of which the decision is to be made (subject to not disclosing Confidential or Exempt Information);
- (b) where the decision maker is an individual, their name and title, if any, and where the decision maker is a body, its name and a list of its membership;
- (c) the date on which, or period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision maker for Consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

General exception

13.3 If prior notice of a Key Decision has not been given in accordance with Rule 13.1 then, subject to Rule 13.5 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to give twenty eight Clear Days notice of it;
- (b) the Proper Officer has informed the chairman of the appropriate Overview and Scrutiny Committee or, if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of such notice available to the public at the Authority's offices and on its website; and
- (d) at least five Clear Days have elapsed since the Proper Officer complied with (a) and (b).

13.4 As soon as reasonably practicable after the Proper Officer has complied with Rule 14.1, he must make available at the Authority's offices and on its website the reasons why compliance with Rule 13.1 was impracticable.

Special urgency

- 13.5 If by virtue of the date by which a decision must be taken Rule 13.3 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the appropriate Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chairman of the appropriate Overview and Scrutiny Committee, or if the Chairman of each appropriate Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of Council, or in their absence the Vice Chair of Council will suffice.
- 13.6 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 13.5 above, they shall request the Proper Officer to make available at the Authority's offices and publish on the Authority's website a notice setting out the reasons why the decision was urgent and could not reasonably be deferred.

Reports on special urgency decisions

- 13.7 Where an executive decision is taken in the circumstances set out in Rule 13.5 (special urgency) the Leader shall report to the next Ordinary Meeting of Council with a summary of the decision. At least one such report must be made to Council on an annual basis and shall include a nil return if appropriate.

Rule 14 Decisions by cabinet members and officers

Application

- 14.1 This Rule applies to decisions made by Cabinet Members and those executive and non-executive decisions made by Officers covered by the 'Guide to Recording and Publication of Officer Decisions' at Appendix F.

Reports intended to be taken into account

- 14.2 Where a Cabinet Member (including the Leader) or an Officer receives a report which they intend to take into account in making any decision covered by Rule 14.1, then they will not make the decision until at least three clear days after receipt of that report.

Provision and publication of copies of reports

- 14.3 On giving of such a report to a Cabinet Member or Officer, the person who prepared the report will give a copy of it to the chairman of the appropriate Overview and Scrutiny Committee as soon as reasonably practicable and, unless it contains Confidential or Exempt Information, the Proper Officer will make it publicly available as soon as reasonably practicable.

Rule 15 Record of decisions

Record of executive decisions by cabinet and cabinet members and executive and non-executive decisions by officers

- 15.1 As soon as reasonably practicable after Cabinet, a Cabinet Member or, within the terms of the 'Guide to Recording and Publication of Officer Decisions' at Appendix

F, an Officer makes a decision, the Proper Officer will produce a written record of the decision which will include the following:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision maker when making the decision;
- (d) a record of any conflict of interest declared by any Member who is involved in the making or delegation or has been consulted on the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

Inspection of decisions by cabinet members and officers

- 15.2 The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by Cabinet Members and Officers under Rule 15.1. This does not require the disclosure of Exempt or Confidential Information.

Form of minutes – general

- 15.3 The name of each Member present shall be recorded in the minutes.

- 15.4 Minutes of decisions taken shall comprise:

- (a) the decision taken, either in full or by reference to another document;
- (b) a reference to the report or other documentation upon which the decision of the meeting was taken;
- (c) any new advice or information, which may be information provided by a member, which is additional to that in (a) above; and
- (d) the reasons for the decision taken if this is not clear from (a) and (b) above or from the wording of the resolution passed;

but shall not record details of the discussion provided that a member may require any advice or undertaking made, or any fact given, orally at the meeting to be recorded in the minutes.

- 15.5 Minutes will normally record all decisions in the order in which they were made.

- 15.6 Where an item on the agenda has been the subject of Confidential or Exempt Information and the press and public have been excluded from the meeting:

- (a) if the decision relates to Confidential Information, the Proper Officer shall arrange for the Minute to be prepared on pink paper in accordance with Rule 11.1 above; or
- (b) if the decision relates to Exempt Information, the Proper Officer shall determine whether the decision is one which can be recorded in the open minutes of the meeting or whether it should be recorded in the same manner as (a) above, in which case they shall ensure that a summary of the

proceedings which does not disclose that Exempt Information shall be included in the open minutes of the meeting.

Form of minutes - Council

15.7 Minutes of a Council meeting will:

- (a) record motions and amendments that have been proposed and seconded in the order in which they were put by the Person Presiding; and
- (b) state the proposer and seconder of each motion and amendment.

Rule 16 Overview and scrutiny committee member access to documents

Right to copies

16.1 Subject to Rule 16.2 below, a member of an Overview and Scrutiny Committee, Overview and Scrutiny Sub-Committee or Scrutiny Task Group will be entitled to a copy of any document which is in the possession or control of the Leader or Cabinet and which contains material relating to:

- (a) any business transacted at a meeting of Cabinet, or
- (b) any decision taken by a Cabinet Member;
- (c) any executive decision taken by an Officer

Limit on rights

16.2 A member of an Overview and Scrutiny Committee will not be entitled to any whole or part of a document which contains Confidential or Exempt Information unless that information is relevant to:

- (a) an action or decision which the member is formally reviewing or scrutinising; or
- (b) any review contained in a programme of work of an Overview and Scrutiny Committee

Timescale

16.3 The provision of any document under Rule 16.1 must be as soon as reasonably practicable and in any case no later than ten Clear Days after the Leader/Cabinet receives the request.

Rule 17 Additional rights of access for members

17.1 Subject to Rules 17.5 and 17.6, any document which is in the possession or under the control of the Leader/Cabinet which contains material relating to any business to be transacted at a public Meeting of the Cabinet shall be made available for inspection by any member.

17.2 Any document which is required by Rule 17.1 to be available for inspection by any member must be available for such inspection for at least five clear working days before the Meeting except that:

- (a) where the Meeting is convened at shorter notice, such a document must be available for inspection when the Meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 17.1 in relation to that item, must be available for inspection when the item is added to the agenda.

17.3 Subject to Rules 17.5 and 17.6, any document which is in the possession or under the control of the Leader/Cabinet and contains material relating to:

- (a) any business transacted at a private meeting of the Cabinet;
- (b) any decision made by the Leader or Cabinet Member in accordance with executive arrangements; or
- (c) any decision made by an Officer in accordance with executive arrangements,

must be available for inspection by any member when the Meeting concludes or in relation to (b) and (c) above, immediately after the decision has been made.

17.4 Any document which is required by Rule 17.3 to be available for inspection by any member must be available for such inspection, in any event, within 24 hours of the conclusion of the Meeting or the decision being made, as the case may be.

17.5 Rules 17.1 and 17.3 do not require a document to be available for inspection if it appears to the Proper Officer that it discloses Confidential or Exempt Information.

17.6 Notwithstanding Rule 17.5, Rules 17.1 and 17.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

- (a) paragraph 3 of Appendix I (except to the extent that the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Appendix I.

17.7 Where it appears to the Proper Officer that compliance with Rules 17.1 or 17.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that Rule will not apply to that document or part.

This page is intentionally left blank

PART 4F

EMPLOYMENT RULES

Note: These rules reflect the requirements of The Local Authorities (Standing Orders) (England) Regulations 2001 and 2015

Rule 1. Definitions

In these Employment Rules:

"2011 Act"	means the Localism Act 2011
"Appointer"	means, in relation to the appointment of an Employee, Council or, where a Committee, sub-committee or Employee is discharging the function of appointment on behalf of Council, that committee, sub-committee or Employee.
"Authority"	means the legal body Cheltenham Borough Council
"Cabinet Member"	means the Leader or a Cabinet Member designated by the Leader in accordance with Part 3 of the Constitution
"Chief Finance Officer"	means the employee appointed for the purposes of section 151 Local Government Act 1972 to administer the financial affairs of the Authority
"Committee"	means Appointments and Remuneration Committee or Disciplinary Committee as the context demands, a sub-committee of those Committees with appointment/dismissal/disciplinary powers or a committee established by Council for appointment/dismissal/discipline of employees
"Council"	means the elected Members of the Authority acting collectively
"Disciplinary Action"	means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Authority, be recorded on an Employee's personal file, and includes any proposal for dismissal of an Employee for any reason other than redundancy, permanent ill-health or infirmity of mind or body
"Dismissor"	means, in relation to the dismissal of an Employee, Council or, where a Committee, sub-committee or another Employee is discharging the function of dismissal on behalf of Council, that Committee, sub-committee or Employee.

“Employee”	means any employee of the Authority
“Head of Paid Service”	means the employee appointed for the purposes of section 4(1) of the Local Government and Housing Act 1989
“Independent Person”	means a person appointed under section 28(7) of the 2011 Act
“Local government elector”	means a person registered as a local government elector in the register of electors in the Authority’s area in accordance with the Representation of the People Acts
“Meeting”	means a meeting of Council, a committee or Cabinet
“Monitoring Officer”	means the employee appointed for the purposes of section 5(1) of the Local Government and Housing Act 1989
“Officer”	means an Employee, a member of staff or someone seconded to the Authority
“Related Organisation”	means an organisation providing technical, administrative or professional services to the Authority
“Relevant Meeting”	means a meeting of Council to consider whether or not to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer

Rule 2. Recruitment and Appointment

Declarations

- 2.1 The Authority will, when undertaking recruitment and as a minimum requirement, require any candidate for employment by the Authority to state in writing whether they are related to an existing Councillor or Officer of the Authority or a member of staff of a Related Organisation.
- 2.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service or an officer authorised by them.

Seeking support for appointment

- 2.3 The Authority will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.
- 2.4 No Councillor will seek support of any person for any appointment of that person by the Authority.

Rule 3. Recruitment of the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors

- 3.1 Where the Authority proposes to appoint the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive or Directors, and it is not proposed that the appointment be made exclusively from among their existing officers, the Authority will:
- (a) draw up a statement specifying:
 - (i) the duties of the post concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

Rule 4. Appointment/Dismissal of Head of Paid Service

- 4.1 Subject to Rules 6 and 8 below, Council must, if it is not itself making the decision, approve the appointment or dismissal of the Head of Paid Service, following the recommendation of such action by a Committee (which must include at least one Cabinet Member), before an offer of appointment or notice of dismissal is given to that person.

Rule 5. Appointment/Dismissal of Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors

- 5.1 Subject to Rule 6 below, the Chief Finance Officer and the Monitoring Officer will be appointed by a Committee which must include at least one Cabinet Member.
- 5.2 The designation of Employees or Officers as Chief Finance Officer or Monitoring Officer will be made by Council.
- 5.3 Subject to Rule 8 below, the dismissal of the Chief Finance Officer or Monitoring Officer must be approved by Council, following the recommendation of such action by a Committee (which must include at least one Cabinet Member), before a notice of dismissal is given to that person.
- 5.4 Subject to Rule 6 below, the Directors will be appointed or dismissed by a Committee which must include at least one Cabinet Member.

Rule 6. Cabinet consultation on appointments and dismissals

- 6.1 An offer of appointment or notice of dismissal under Rules 4 and 5 shall not be made by the Appointer or given by the Dismissor until:
- (a) the proposed appointment or dismissal has been approved by Council or Committee under Rules 4 and 5: and
 - (b) the Appointer or the Dismissor has notified the Proper Officer of the name of the person to whom the Appointer wishes to make the offer or of the person to whom the Dismissor wishes to dismiss together with any other particulars which the Appointer or the Dismissor considers are relevant to the proposed course of action: and
 - (c) the Proper Officer has notified every Cabinet Member of
 - the name of the person to whom the Appointer wishes to make the offer or the Dismissor wishes to dismiss
 - any other particulars relevant to the proposed appointment or dismissal which the Appointer or the Dismissor have notified to the Proper Officer: and
 - the period within which any objection to the making of the offer or the giving of notice of dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer: and
 - (d) either -
 - (i) the Leader has, within the period specified in (c), notified the Appointer or the Dismissor that neither they nor any other of the Cabinet Member has any objection to the making of the offer or the giving of the notice of dismissal; or
 - (ii) the Proper Officer has notified the Appointer or the Dismissor that no objection was received by them within the period specified in (c) from the Leader; or
 - (iii) the Appointer or the Dismissor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

Rule 7. Appointment/Dismissal of other employees

- 7.1 Appointment and dismissal of Employees other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors and assistants to political groups is the responsibility of the Head of Paid Service or their nominee and may not be undertaken by Councillors.
- 7.2 Appointment or dismissal of an assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

Rule 8. Suspension, disciplinary action, dismissal – Head of Paid Service, Chief Finance Officer and Monitoring Officer

Suspension

- 8.1 Those Employees in the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay.

Disciplinary Action

- 8.2 Subject to Rule 8.3 below, any Disciplinary Action taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall be in accordance with the Authority's disciplinary, capability and related procedures. Where appropriate and in a case of urgency the Chair of the Disciplinary Committee can suspend, for a period of up to 2 months, the Head of Paid Service, Monitoring Officer or the Chief Finance Officer. This power can only be exercised following consultation with Human Resources.

Dismissal

- 8.3 Disciplinary Action leading to potential dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall be undertaken in accordance with the following procedure:
- (a) The Authority must appoint at least two relevant Independent Persons to the Committee which is dealing with the Disciplinary Action.
 - (b) In Rule 8(a) above, 'relevant Independent Person' means any Independent Person who has been appointed by the Authority or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Authority considers appropriate.
 - (c) Subject to Rule 8(d) below, relevant Independent Persons shall be appointed to the Committee in accordance with the following priority order:
 - i. A relevant Independent Person who has been appointed by the Authority and who is a local government elector;
 - ii. Any other relevant Independent Person who has been appointed by the Authority;
 - iii. A relevant Independent Person who has been appointed by another authority or authorities.
 - (d) The Authority is not required to appoint more than two relevant Independent Persons in accordance with paragraph 8(c) above but may do so.
 - (e) The relevant Independent Persons must be appointed to the Committee at least 20 working days before the Relevant Meeting.
 - (f) Before the taking of a vote at the Relevant Meeting on whether or not to approve such a dismissal, Council must take into account, in particular –
 - i. Any advice, views or recommendations of the Committee;

- ii. The conclusions of any investigation into the proposed dismissal; and
- iii. Any representations from the relevant Employee.

Rule 9. Disciplinary action – other employees

- 9.1 Councillors will not be involved in Disciplinary Action against any employee other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors except where such involvement is necessary for any investigation or inquiry into alleged misconduct through the Authority's disciplinary, capability and related procedures, as adopted from time to time, and such procedures may allow a right of appeal to Councillors in respect of Disciplinary Action.

Rule 10. Debating employment issues

- 10.1 Where any question arises at a Meeting concerning the appointment, promotion, dismissal, salary, conditions of service or conduct of any Employee (as opposed to Employees in general), the Meeting shall resolve to exclude the press and public under the Access to Information Rules unless, for reasons that shall be stated in the resolution, it resolves otherwise.

Rule 11. Remuneration of Independent Person

- 11.1 Any remuneration, allowances or fees paid by the Authority to an Independent Person appointed to the Committee for the purposes of Rule 8 above must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of their role as Independent Person under the 2011 Act.

Part 4G – Budget and Policy Framework Rules

Rule 1 General Principles

- 1.1 Cabinet is responsible for formulating and proposing the Budget and plans, strategies and policies forming part of the Policy Framework and Council is responsible for the adoption of the Budget and the Policy Framework.
- 1.2 The ‘Budget’ and the ‘Policy Framework’ are defined in Article 4 of the Constitution.
- 1.3 Decisions made in respect of both Executive and non-Executive Functions shall be in accordance with the Budget and decisions made in respect of Executive Functions shall be in accordance with the Policy Framework, subject to such departure or exception as permitted by these Rules.

Rule 2 Process for developing the budget and the policy framework

- 2.1 The process by which the Budget and the Policy Framework shall be developed is:
 - 2.1.1 Cabinet will publicise a timetable for making proposals to Council for the adoption of the Budget or any plan, strategy or policy forming part of the Policy Framework, by including the proposal in the Forward Plan and giving appropriate public notice and this will include details of the arrangements for consultation after publication of those initial proposals. The O&S Committee chair will also be notified. The consultation period shall as regards the Budget be not less than 4 weeks, and as regards the Policy Framework not less than 8 weeks.
 - 2.1.2 If O&S Committee wishes to respond to Cabinet during the relevant consultation period, it may do so. O&S Committee may investigate, research and report in detail with appropriate recommendations before the end of the consultation period.
 - 2.1.3 After the end of the consultation period, Cabinet will draw up proposals taking into account the responses to the consultation including any response from O&S Committee. Once Cabinet has approved firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision. The Cabinet report to Council will summarise the comments made by consultees (including O&S Committee) and the Cabinet response to those comments.
 - 2.1.4 In reaching a decision on the proposals in the Cabinet report, Council may:
 - 2.1.4.1 adopt the proposals,
 - 2.1.4.2 amend the proposals,
 - 2.1.4.3 refer the proposals back to Cabinet for further consideration, or

2.1.4.4 in the case of proposals for the Policy Framework only, refer them to O&S Committee for consideration and onwards recommendation to Cabinet.

- 2.1.5 If Council accepts the recommendation of Cabinet without amendment, Council may make a decision which has immediate effect. Otherwise, Council may only make an in-principle decision, except in respect of the Budget if Cabinet has failed to submit a draft Budget for consultation by the 8th February.
- 2.1.6 The decision of Council will be publicised in accordance with the Access to Information Rules and a copy must be given to the Leader.
- 2.1.7 An in-principle decision will automatically become effective 5 working days from the date of the Council's decision, unless the Leader informs the Proper Officer in writing within those 5 working days that he objects to the decision becoming effective and provides written reasons for that objection.
- 2.1.8 Where the Leader raises an objection, the Proper Officer will call a Council meeting to be held within 7 working days of receipt of the Leader's notification of his objection when Council will be required to reconsider its decision and the Leader's written submission. The Council may either approve the Cabinet's recommendation or make a different decision.
- 2.1.9 The decision of Council shall then be made public in accordance with the Access to Information Rules and shall be implemented immediately.
- 2.1.10 In approving the Budget and the Policy Framework, Council may also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may, in addition to any requirement of the Financial Rules, be undertaken in accordance with Budget and Policy Framework Rules 5 and 6 (virement and in-year changes). Any other changes to the Budget and the Policy Framework are reserved to Council.

Rule 3 Decisions outside of the budget and the policy framework

- 3.1 Subject to the provisions of Rule 4 below (urgent decisions) Cabinet, Cabinet Members, Committees, Officers or Joint Arrangements may only take decisions which are in accordance with the Budget and the Policy Framework. If any of these bodies or persons wish to make a decision which is not in accordance with the Budget or the Policy Framework, that decision may only be taken by Council, subject to Rule 4 below.
- 3.2 If Cabinet, Cabinet Members, Committees, Officers or Joint Arrangements wish to make a decision which they consider may not be in accordance with the Budget or the Policy Framework, they must notify the Monitoring Officer and the Chief Finance Officer who shall first advise as to whether the decision would not be in accordance with the Budget or the Policy Framework.
- 3.3 If the Monitoring Officer and/or the Chief Finance Officer, either

3.3.1 following notification under Rule 3.2 or

3.3. being aware of a decision to be made, or

3.3.2 being aware of a decision having been made but not implemented

advise that the decision in question would not be or is not in accordance with the Budget or the Policy Framework or any virement or tolerances approved by Council, the decision must be referred by the Proper Officer to Council for decision, unless

(a) the decision maker reconsiders the matter and decides to make a decision in accordance with the Budget or Policy Framework, or

(b) it is an urgent decision, in which case the provisions in Rule 4 below shall apply.

3.4 In the case of a decision made but not implemented, where the Proper Officer refers the decision to Council under Rule 3.3 the decision may only be implemented in accordance with Rule 3.5.

3.5 Where Council considers a report from the Proper Officer under Rule 3.3 with regard to a decision which may not be in accordance with the Budget or the Policy Framework:-

3.5.1 If Council determines that the decision is in accordance with the Budget or the Policy Framework, the decision may be made and / or implemented;

3.5.2 If Council determines that the decision is not in accordance with the Budget or the Policy Framework, Council may

(a) amend the Budget or the Policy Framework to allow the decision to be made and / or implemented,

(b) authorise the decision to be made and / or implemented as a departure from the Budget or the Policy Framework,

(c) refer the matter back to the decision maker for reconsideration.

3.6 Where a decision maker accepts the advice of the Borough Solicitor & Monitoring Officer and/or the Chief Finance Officer given under Rule 3.3 but the decision has already been implemented, the decision maker must submit a report to the next available meeting of Council explaining the decision and how it came to be made.

Rule 4 Urgent decisions outside of the budget and the policy framework

4.1 Cabinet, Cabinet Members, Committees, Officers or Joint Arrangements may take a decision which is not in accordance with the Budget or the Policy Framework if it is an urgent decision. However, the decision may only be taken if:

- 4.1.1 it is not, in the view of the Proper Officer, practical to convene a quorate meeting of Council; and
- 4.1.2 the chair of the O&S Committee agrees that the decision is urgent. In the absence of the chair, prior consent may be given by, in order, the vice-chair or Group Leaders acting collectively.
- 4.2 The reasons why it is not practical to convene a quorate meeting of Council, the reason for urgency and the O&S Committee chair's consent to the urgent decision being taken must be noted on the record of the decision.
- 4.3 Following the decision, the decision maker must report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as urgent.
- 4.4 An urgent decision made under this Rule 4 shall not be subject to call-in.

Rule 5 Virement

- 5.1 Any virement shall comply with the provisions of the Council's Financial Rules or such other tolerances as the Council shall approve when agreeing the Budget.
- 5.2 Steps taken by Cabinet, Cabinet Members, officers, or joint arrangements discharging executive functions shall not exceed the sums allocated to each budget head unless permitted by the Financial Rules or otherwise agreed by the Council.

Rule 6 In-year changes to the policy framework

- 6.1 No changes to any plan, strategy or policy which forms part of the Policy Framework may be made by Cabinet, Cabinet Members, Committees, Officers or Joint Arrangements except those changes:
 - 6.1.1 which will result in the closure or discontinuance of a service or part of service to meet a constraint in the Budget, other than where Council has specifically allocated in the Budget money for that service and has determined that this Rule 6 shall not apply to it;
 - 6.1.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
 - 6.2.3 in respect of a plan, strategy or policy matter which would normally be adopted by Council as a part of the Policy Framework, but where the existing plan, strategy or policy document is silent on the matter under consideration.

Rule 7 Call-In

- 7.1 The chair of O&S Committee or any 4 members of Council may request the Proper Officer to call in a decision in respect of an Executive Function made (but not yet implemented) by

- (a) Cabinet,
- (b) a Cabinet Member,
- (c) Joint Arrangements, or
- (d) an Officer (where making a key decision)

on the basis that it does not comply with these Budget and Policy Framework Rules.

- 7.2 The call-in procedures as set out in Rule 14 Overview and Scrutiny Rules (Part 4G) shall apply to call-in under this Rule 7.

This page is intentionally left blank

Part 4 H - Financial Rules

Contents table

1.	Introduction	5
2.	Status of Financial Rules	5
A:	Financial Management	6
A1	Introduction	6
A2	Emergencies.....	6
A3	Full Council.....	6
A4	Cabinet	7
A5	Overview and Scrutiny Committee	8
A6	Audit, Compliance and Governance Committee	8
A7	Not Used	8
A8	Other Committees	8
A9	Head of Paid Service (Chief Executive).....	9
A10	Monitoring Officer	9
A11	Section 151 Officer	9
A12	Directors and Heads of Service.....	11
A13	Employees	11
A14	Internal Audit.....	12
A15	External Audit.....	12
B:	Financial Planning, Budget Preparation and Budget Monitoring	13
B1	Introduction	13
B2	Full Council.....	13
B3	Cabinet	14
B4	Section 151 Officer	14
B5	Directors and Heads of Service.....	15
B6	Budget Holders and Other Employees	15
B7	Preparation of Capital Programme	16
B8	Resource Allocation	17
B9	Increases in Estimates	17
B10	Carry Forward of Budget.....	17
B11	Maintenance of Reserves.....	17
C:	Scheme of Virement	19



C1	Introduction	19
C2	Full Council.....	19
C3	Budget Variations within a Service.....	19
C4	Virement Rules/Limits	19
D:	Risk Management and Insurance	21
D1	Introduction	21
D2	Cabinet.....	21
D3	Audit, Compliance and Governance Committee	21
D4	Section 151 Officer.....	21
D5	Directors and Heads of Service.....	22
D6	Budget Holders and Other Employees	22
E:	Internal Controls and Audit	24
E1	Introduction	24
E2	Internal Audit.....	24
E3	External Audit and Inspection	24
E4	Audit, Compliance and Governance Committee	25
E5	Section 151 Officer.....	26
E6	Directors and Heads and Service.....	26
E7	Preventing Fraud and Corruption	27
E8	Ex-Gratia/Maladministration Payments	27
F:	Assets	29
F1	Introduction	29
F2	Full Council.....	29
F3	Cabinet.....	29
F4	Chief Executive (or other delegated officer)	29
F5	Director or Head of Property Services (or other delegated officer)	29
F6	Monitoring Officer (or other appropriate officer as delegated in the Constitution)	30
F7	Section 151 Officer.....	31
F8	Directors, Heads of Service and Budget Holders.....	32
F9	Information and Communication Technology.....	32
F10	Stocks and Shares	33
F11	Write-offs	34
F13	Intellectual Property.....	34
G:	Treasury Management	35
G1	Introduction	35



G2	Full Council.....	35
G3	Cabinet and other appropriate Committees	35
G4	Section 151 Officer	35
G5	Banking Arrangements	36
G6	BACS payments and Cheques	38
H:	Financial Systems and Accounting Procedures	39
H1	Introduction	39
H2	Section 151 Officer	39
H3	Directors, Heads of Service and Budget Holders.....	39
H4	Employees	41
H5	Orders for works, goods and services.....	41
H6	Payment of Accounts	42
H7	Payments to Employees and Members.....	43
H8	Travel and Subsistence Claims	44
H9	Value Added Taxation.....	44
H10	Trading Accounts/Business Units	45
H11	Journals.....	45
I:	Income.....	46
I1	Introduction	46
I2	Cabinet	46
I3	Section 151 Officer	46
I4	Directors and Heads of Service.....	46
I5	Budget Holders.....	47
I6	Employees	48
I7	Accounts Receivable (Debtors Invoices).....	48
I8	Debt Recovery Procedures	48
I9	Write off of unrecoverable debts	49
J:	Council Tax and Non-Domestic Rates	50
J1	Introduction	50
J2	Section 151 Officer	50
J3	Head of Revenues and Benefits	50
K:	Council Tax Benefit and Housing Benefit.....	51
K1	Introduction	51
K2	Section 151 Officer	51
K3	Head of Revenues and Benefits	51



L:	External Arrangements	52
L1	Partnerships.....	52
L2	External Funding.....	53
L3	Work for Third Parties	54

1. Introduction

- 1.1 Financial Rules, together with Contract Procedure Rules and other forms of guidance on procedure and conduct, provide the framework for managing the council's financial affairs, ensuring high integrity and accountability. They apply to every Member and Officer of the council and anyone acting on behalf of the council.
- 1.2 To conduct its business efficiently the council needs to ensure that there are sound financial management policies in place and that these are strictly adhered to. Part of this process is the establishment of Financial Rules that set out the financial policies of the councils forming Publica.
- 1.3 These Financial Rules are made pursuant of the Local Government Act 1972, Section 151 the Accounts and Audit Regulations 2003 (as amended) and all other enabling powers.
- 1.4 The Financial Rules provide clarity over the accountabilities of individuals, ensures that the council uses best practice when dealing with financial matters and that council resources are used wisely.
- 1.5 For the purpose of these Financial Rules, the description "Council" shall refer to the Full Council, made up of elected members, and the term "council" shall relate to the local authority.

2. Status of Financial Rules

- 2.1 These Financial Rules relate to Cheltenham Borough Council
- 2.2 The Financial Rules shall be complied with by all Officers and Members of the Council.
- 2.3 The Financial Rules identify the financial responsibilities of the Council, Cabinet and Cabinet Members, other Members, the Head of Paid Service (Chief Executive), the Monitoring Officer, the Section 151 Officer, other Directors and Heads of Service and all other employees and agents of the council.
- 2.4 Directors and Heads of Service are responsible for ensuring that all staff in their departments are aware of their responsibilities according to the Financial Rules and other internal regulatory documents and comply with them.
- 2.5 Cabinet Members and Senior Officers should maintain a written record where these responsibilities have been delegated to members of staff, including seconded staff.
- 2.6 Where responsibilities have been delegated or devolved to other responsible Officers, references to the Members or Senior Officers in the rules should be read as referring to them.
- 2.7 All Members and Employees have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money. Nothing included in or omitted from these Financial Rules shall detract from this responsibility.



- 2.8 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Rules and advising the Cabinet of any non-material additions or changes necessary.
- 2.9 The Rules will be formally reviewed every 5 years under the control of the Section 151 Officer. The revised Rules will be reported to Council for approval. In the meantime, if material changes make a review of the Rules necessary, this should be the subject of a report by the Section 151 Officer.
- 2.10 Should an instance of non-compliance with these rules be discovered the Section 151 Officer may, after consultation with the Chief Executive, make a report to the Leader, Full Council and/or Cabinet, as appropriate. Non-compliance with financial rules may also lead to disciplinary action being taken.

A: Financial Management

A1 Introduction

- A1.1** Financial management covers all financial accountabilities in relation to the running of the council, including the policy framework and budget.
- A1.2** Key processes and controls must be in place to ensure good financial management and help the council conduct affairs in an efficient, effective and economic manner.
- A1.3** Monitoring systems must be in place to review compliance with financial standards and to ensure compliance with legal and corporate requirements for accountability.

A2 Emergencies

- A2.1** Nothing in these Financial Rules or the Contract Rules shall prevent the Cabinet, the Executive Board or a Director from incurring expenditure essential to meet any immediate needs created by an emergency, or which is referable to Section 138 of the Local Government Act 1972. This should be done in accordance with the council's constitution. Any such action shall be reported as soon as possible to Cabinet, detailing the nature of the emergency, the action taken, the financial implications and any other consequences.

A3 Full Council

- A3.1** The Full Council for each authority is responsible for:
- Adopting the council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates.
 - Approving and monitoring compliance with the council's overall framework of accountability and control. The framework is set out in the council's written Constitution.
 - Approving procedures for recording and reporting decisions taken. This includes decisions taken by the Council, the Cabinet, Committees and Officers. These delegations and details of who has responsibility for which decisions are set out in the council's Constitution.



A3.2 The Full Council (together with the Section 151 Officer) has a statutory responsibility to ensure:

- The setting of the annual budget, including the allocation of financial resources to different services and projects, proposed reserves, the Council tax base and the setting of the Council tax.
- The preparation of the annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2015, before 31st May following the year end to which they relate. The Section 151 Officer shall sign and date the draft Statements before 31st May of each year and the final audited Statements before 30th September each year)
- The publishing of the Statement of Accounts, and the external auditor's Certificate, Opinion or Report by 30th September each year following the year end to which they relate. The Council has given delegated authority for the Statement to be approved by Audit, Compliance and Governance Committee or other approved Committee as per the council's constitution, and signed by the person presiding at the Committee meeting at which the approval is given.
- The Statement of Accounts are made available for public inspection for 20 days prior to the date set by the external auditor, on or after which the electors rights under Section 15 (2) and 16 (1) of the Audit Commission Act 1988 can be exercised in accordance with the Accounts and Audit Regulations 2003. Also to ensure publish of the Annual Audit and Inspection letter received from the external auditor.
- That public notice is given by advertisement of the conclusion of the audit and that the Statement of Accounts and the external auditor's report are available for inspection.

A4 Cabinet

- A4.1** The Cabinet is responsible for discharging executive functions in accordance with the policy framework and budget and for monitoring compliance with the agreed policy and related executive decisions.
- A4.2** Executive decisions can be delegated to a Committee of the Cabinet, an individual Cabinet Member, an Officer, a Joint Committee.
- A4.3** The constitution contains a requirement to ensure that an individual Cabinet Member consults with relevant officers before taking a decision within their delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.
- A4.4** No member shall ask an employee to incur expenditure for which there is no appropriate provision in the budget, unless in consultation as part of an emergency as detailed in paragraph A2.1.
- A4.5** A record shall be kept of the decision making process.



A5 Overview and Scrutiny Committee

- A5.1** The council has Overview and Scrutiny Committee(s), responsible for the scrutiny of Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. These Committee(s) are also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the council.
- A5.2** Overview and Scrutiny Committee(s) do not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to Cabinet and the council concerning any matter.

A6 Audit, Compliance and Governance Committee

- A6.1** The council has an Audit, Compliance and Governance Committee, responsible for ensuring effective internal control and independent assurance mechanisms across all areas of the council and for promoting and maintaining high standards of conduct amongst Members of the council and co-opted Members on its Committees and Sub-Committees.
- A6.1** The council has an Audit, Compliance and Governance Committee, responsible for ensuring effective internal control and independent assurance mechanisms across all areas of the council and for for promoting and maintaining high standards of conduct amongst Members of the council and co-opted Members on its Committees and Sub-Committees. In particular, it is responsible for advising the council on the adoption of the Members' Code of Conduct, and for monitoring the operation of the code.
- A6.2** The Audit, Compliance and Governance Committee is responsible for Internal Audit, External Audit provision, risk management, the signed approval of the Annual Statement of Accounts the Corporate Governance Framework and standards. This Committee does not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to other Committees and the council concerning any matter.

A7 Not Used

A8 Other Committees

- A8.1** Planning and Licensing Committees- Planning regulation and licensing are quasi-judicial functions and are exercised through Planning and Licensing Committees within the council, under powers delegated by Full Council. The terms and references of these committees are set out in the Constitution.
- A8.2** Joint Committees- The council can set up Joint Committees with other organisations to oversee the management of activities or facilities. The financial activity of Joint Committees is governed by their terms of reference. The council's procedural and Financial Rules apply to Joint Committees unless there has been specific agreement in line with the constitution to operate under other rules.



A9 Head of Paid Service (Chief Executive)

A9.1 The Head of Paid Service (Chief Executive) is responsible for the corporate and strategic management of the council and fulfils the statutory role of Head of Paid Service. He or she must report to and provide information for Full Council, Cabinet, Overview and Scrutiny Committees, Audit, Compliance and Governance Committee and any other Committees as required. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

A9.2 The Head of Paid Service (Chief Executive) is also responsible, together with the Monitoring Officer and/or other delegated Officer, for the system of record keeping in relation to all Full Council's decisions.

A10 Monitoring Officer

A10.1 The Monitoring Officer is a statutory role within the council, and is the lead Solicitor for the Authority. This role cannot be the Head of Paid Service or the Section 151 Officer. The Monitoring Officer's role is defined in the Constitution, including responsibility for:

- Advising, as appropriate, the Council on amendments to the constitution or making such amendments as necessary to take account of decisions of the Council, a Committee, the Cabinet or Leader and changes of law or fact. He or she shall notify Members, the Head of Paid Service and other Officers as they consider appropriate.
- Contributing to the promotion and maintenance of high standards of conduct through the provision of support to the Audit, Compliance and Governance Committee.
- Receiving and acting on reports made by ethical standards officers and decisions of the First-Tier Tribunal.
- Conducting investigations into matters referred by an Initial Assessment Sub-Committee or an Appeals Sub-Committee of the Audit, Compliance and Governance Committee, or arranging for such investigations to be made, and making reports or recommendations in respect of them to the Audit, Compliance and Governance Committee.
- After consultation with the Head of Paid Service and the Section 151 Officer, reporting to Council (or Cabinet in relation to an Executive function), if they consider that any proposal, 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.

A11 Section 151 Officer

A11.1 Section 151 of the Local Government Act 1972 requires that every local authority in England and Wales should make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the



administration of those affairs. This Officer must be a member of a specific accounting body.

A11.2 The Section 151 Officer is therefore a statutory role of the council, with statutory duties in relation to the financial administration and stewardship of the council. He or she (or their designated deputy) shall have the right and duty to advise the Council, Cabinet, Committees and Senior Management Team on priorities in relation to resources and capital expenditure. This statutory responsibility cannot be overridden.

A11.3 The Section 151 Officer is responsible for:

- The proper administration of the council's financial affairs.
- Determining the council's accounting records, including the form of accounts and supporting accounting records and its accounting control systems, in compliance with the Accounts and Audit regulations 2003.
- Providing financial information and advising on the corporate financial position to the authority as required.
- Ensuring that the Annual Statements of Accounts are prepared in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.
- Signing the Annual Statement of Accounts and certifying that it presents a true and fair view of the financial position of the council at the financial year end.
- Preparing the Medium Term Financial Strategy and the Annual Revenue Budgets and Capital Programmes, within the Policy Framework.
- Reporting to Full Council (under the requirement of Section 25 of the Local Government Act 2003), when it is considering its budget, council tax and housing rents (if applicable) for the new financial year. This 'Section 25' report to include the robustness of estimates and adequacy of reserves.
- Advising the council on the level of reserves needed for meeting estimated future expenditure, in accordance with the statutory requirement for billing authorities to maintain financial reserves (under Sections 32 and 43 of the Local Government Finance Act 1992).
- Treasury Management.
- Advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the approved budget.
- Providing regular reports to the Cabinet on the council's finances and financial performance.
- Monitoring compliance with the Financial Rules and Contract Procedure Rules and reporting, where appropriate, breaches of these rules to the Cabinet and/or full Council.
- Formally reviewing the Financial and Contract Procedure Rules every 5 years and reporting the revised Rules to the council for approval.

- Maintaining a continuous review of the Financial and Contract Procedure Rules and making any non-material changes to the Rules, as considered necessary, or as part of the formal 5 year review.
- Advising the Cabinet of any material additions or changes necessary to the Financial Rules.
- Issuing advice and guidance to underpin these rules for Members, employees and agents of the council to follow.

A11.4 Section 114 of the Local Government Finance Act 1988 requires:

- The Section 151 Officer to nominate a properly qualified member of their staff to deputise should he or she be unable to perform the Section 151 Officer duties personally.
- The council to provide the Section 151 Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, in order to carry out the Section 151 Officer duties.

A12 Directors and Heads of Service

A12.1 Directors and Heads of Service are responsible for the delivery of their own service(s) and for the day to day management of their service(s) budgets. Spending and income generation should be in accordance with service budgets and performance monitored against budget.

A12.2 Each Director or Head of Service is responsible for:

- Complying with the Financial and Contract Rules and other internal regulatory documents and ensuring that all employees within their service(s) are aware of the existence and content of these Rules.
- Advising Cabinet Members of the financial implications of all proposals and ensuring that the financial implications have been agreed by the Section 151 Officer.
- Consulting with the Section 151 Officer or delegated Deputy and seeking approval on any matter liable to affect the Council's finances materially (defined as in excess of £25,000), before any commitments are incurred.
- Ensuring that all systems and controls within their service(s) are operated to prevent, minimise and detect any opportunity for fraud, theft or other irregularity. He or she should ensure the accountability and control of employees and the security, custody and control of all other resources within the service(s).

A13 Employees

A13.1 All employees and/or agents acting on behalf of the council are responsible for:

- Complying with the Financial and Contract Procedure Rules and any other internal regulatory documents of the council.



- Keeping accurate and comprehensive records to support transactions they undertake on the council's behalf. These records must be in accordance with the accounting systems and policies established by the Section 151 Officer.
- Avoiding conflicts of interest and ensuring compliance with the employees code of conduct.

A14 Internal Audit

- A14.1** The Accounts and Audit Regulations 2011 (England) requires that the council must undertake an adequate and effective internal audit of its accounting records and its system of internal control, in accordance with the proper practices in relation to internal control.
- A14.2** The Section 151 Officer is responsible for ensuring that arrangements are put in place to ensure financial stewardship, probity and compliance with laws and regulations within the council.
- A14.3** The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the council's control environment under the CIPFA Code of Practice for Internal Audit in Local Government 2006.
- A14.4** The council's Internal Audit function is responsible for reviewing and reporting on corporate and departmental internal control arrangements, both financial and operational, as appropriate. This function can be provided by a suitably qualified external body (for example a shared Internal Audit Service).
- A14.5** Internal Audit shall provide positive assurance when financial controls are effective and recommendations for improvement where they are not. They shall advise all levels of management on the operation of financial and operational controls to help prevent things going wrong.
- A14.6** Internal Audit are responsible for the investigation and reporting of all suspected irregularities, at the request of the Section 151 Officer, Monitoring Officer, the Chief Executive or a Director.

A15 External Audit

- A15.1** The council's External Auditor is responsible for considering whether the council has proper arrangements in place for:
- Securing financial resilience; reviewing the council's financial governance, financial planning and financial control processes.
 - Challenging how it secures economy, efficiency and effectiveness; looking at how the council is prioritising resources and improving efficiency and productivity.



B: Financial Planning, Budget Preparation and Budget Monitoring

B1 Introduction

- B1.1** Full Council is responsible for agreeing the council's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are the corporate plan, the annual revenue budget, the capital programme and the Medium Term Financial Strategy.
- B1.2** The policy framework comprises a number of statutory plans and strategies that are listed in the council's Constitution.
- B1.3** The budget is the financial expression of the council's plans and policies. It reflects Council, Cabinet and Committee priorities and gives authority to Budget Holders to incur expenditure or collect income. It should take due account of the risks and opportunities facing the council.
- B1.4** The revenue budget must be constructed to ensure that resource allocation properly reflects the service plans and priorities of the council. Budgets are needed so that the council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the council to budget for a deficit.
- B1.5** Medium term financial planning covering a minimum period of 4 years, which incorporates both revenue and capital plans, involves a planning cycle in which Members, the Chief Executive, Directors and Budget Holders plan for significant events and changes to spending and income. This allows for measured and appropriate action to be taken each year when setting detailed budgets and avoids the need for urgent or undesirable action.

B2 Full Council

- B2.1** Full Council is responsible for the approval and adoption of its annual Budget in February of each year prior to the start of the next financial year.
- B2.2** This includes:
- The allocation of financial resources to services and projects.
 - The control of capital expenditure.
 - The approval of the Medium Term Financial Strategy.
 - The control of the council's borrowing requirement.
 - Setting the rate of Council Tax.
 - Setting the Council Tax base (unless delegated under the constitution)
- B2.3** Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework, unless otherwise delegated under the constitution.



- B2.4** Full Council is responsible for setting the level at which the Cabinet, Cabinet Members and Officers may reallocate budget funds from one service to another (see virement rules, Section C).

B3 Cabinet

- B3.1** The general format of the annual budget will be approved by Cabinet, on the advice of the Section 151 Officer, in the autumn of each year prior to the start of the next financial year.

- B3.2** The Cabinet is responsible for:

- Co-ordinating the development of the Budget and Policy Framework and submitting budget proposals to Full Council in February prior to the start of the next financial year.
- Taking in-year decisions on resources and priorities in order to deliver the budget and Policy Framework within the financial limits set by the council.
- Monitoring financial performance against the budget.

B4 Section 151 Officer

- B4.1** The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a Medium Term Financial Strategy is prepared on a minimum 4 year basis for consideration by the Cabinet, before submission to Full Council in February prior to the start of the next financial year.

- B4.2** The Section 151 Officer is responsible for:

- Determining the format and the timetable for the budget, to be agreed by Cabinet in the autumn prior to the start of the next financial year
- Supplying the financial information that needs to be included in policies, strategies and performance plans in accordance with statutory requirements and agreed timetables.
- Providing guidance to Officers on budget preparation.
- Advising Full Council on Cabinet budget proposals in accordance with their responsibilities under Section 151 of the Local Government Act 1972. This advice to be presented to Full Council at its budget setting meeting in February, as part of their S25 Report.
- Ensuring that expenditure is committed only against an approved budget and that all Officers responsible for committing expenditure comply with the Financial Rules and other relevant guidance.
- Establishing a framework of budgetary management and control, ensuring that financial performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.
- The preparation of Budget Monitoring reports, to be reported to Cabinet, reflecting significant variations to income and expenditure budgets (in excess of £25,000) and the overall financial position, on a minimum quarterly basis.
- Ensuring that appropriate and timely information is provided on receipts and payments, in order to allow budgets to be monitored effectively.

- Ensuring that systems are in place to measure activity and collect accurate financial information for use in local financial performance indicators.
- Complying with all legal requirements and CIPFA's Code of Practice on Local Authority Accounting and CIPFA's Service Reporting Code of Practice for Local Authorities.

B5 Directors and Heads of Service

B5.1 Directors and Heads of Service should manage their budgets responsibly and prudently and not create future commitments without approved budget.

B5.2 Directors and Heads of Service are responsible for:

- Contributing to the development of the Policy Framework, budgets and performance plans within their areas of responsibility. Budget estimates should be prepared in line with guidance issued by the Section 151 Officer and have regard to known spending patterns, legal requirements and agreed corporate and/or service plans.
- Contributing to the development of corporate and service targets, objectives and performance information in their areas of responsibility.
- Developing their services' performance plans in line with statutory requirements and corporate guidance.
- Achieving the targets, objectives and levels of performance as set out in the corporate plans (including achievement of budgetary targets within their areas of responsibility).
- Complying with the accounting guidance provided by the Section 151 Officer and ensuring that income and expenditure is properly recorded and accounted for in their service areas. Income and expenditure should not be miscoded as a means of applying unauthorised virement.
- Monitoring income and expenditure within their approved budgets and reporting to the Section 151 Officer and Cabinet Member significant variations to budget (in excess of £25,000). He or she should also take the necessary action required to improve the financial position.

B5.3 Directors and Heads of Service are able to delegate budget responsibilities to Service Managers within their given area of responsibility. Any such scheme of delegation should be documented and the Budget Holder made aware of their levels of authority and the contents of the Financial Rules. Adequate training and support should be provided to Budget Holders to enable them to carry out their financial responsibilities and internal controls should be established to ensure that budgets are properly monitored.

B6 Budget Holders and Other Employees

B6.1 Each delegated budget holder and employee shall be responsible for the sound financial management and budgetary control of their delegated area. This will include the monitoring and control of all financial and finance related systems and the



monitoring and control of access to computerised financial records. Significant variations to budgets should be reported to their Director or Head of Service.

B7 Preparation of Capital Programme

- B7.1** Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure may include loans and grants which are used by others for capital purposes.
- B7.2** The Section 151 Officer is responsible for defining whether expenditure is classed as capital or revenue expenditure, having regard to Government regulations and accounting requirements.
- B7.3** The council can set a “de minimis” level for treating capital expenditure as revenue, to avoid unnecessary work in identifying potential capital spend. The current “de minimis” level is set at £25,000. Expenditure falling within the definition of capital expenditure will be charged to revenue if it is for £25,000 or less.
- B7.4** The Section 151 Officer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by Cabinet, before submission to Full Council for approval as part of the annual Budget setting process.
- B7.5** Each Director or Head of Service will prepare a business case for each new item to be included in the capital programme, including details of the scheme, the capital budget requirement, a project plan, associated revenue expenditure and any other details requested by the Section 151 Officer.
- B7.6** No capital scheme shall commence which will increase the revenue expenditure of the council until such revenue provision has been approved.
- B7.7** The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- B7.8** New capital schemes in year should be approved as follows:
- Amounts not exceeding £100,000 – by Cabinet
 - Amounts in excess of £100,000 – by Full Council.

This approval is subject to the availability of the approved budget.

- B7.9** As part of the capital programme, an asset management plan shall be maintained by a designated Director or Head of Service and a capital strategy shall be maintained by the Section 151 Officer. The plan and strategy shall be reported to Cabinet every three years.



B7.10 Once a capital project has been approved, a Director, or delegated employee, will be accountable for the delivery of the scheme and must comply with the council's Contract Procedure Rules, Financial Rules and any other internal regulatory documents.

B8 Resource Allocation

B8.1 Where there is a mismatch between available resources and required resources, service needs should be prioritised and resources fairly allocated.

B8.2 The Section 151 Officer is responsible for:

- Developing and maintaining a resource allocation process that ensures due consideration of the council's policy framework.
- Advising on methods available for accessing additional resources and assessing their financial implications.
- Assisting in the allocation of resources to budget holders.

B9 Increases in Estimates

B9.1 Other than by virement or supplementary estimate, expenditure estimates may not be increased as a result of increased income, unless the service is designated as a trading service by the Section 151 Officer, in consultation with the relevant Director and Cabinet Member. In these circumstances expenditure estimates approved by the Council may be increased as a result of increased income, in line with the virement rules set out in the Financial Rules.

B10 Carry Forward of Budget

B10.1 Carry forward of planned underspend of revenue budgets into the following financial year will only be allowed with the agreement of the Section 151 Officer, in order to meet the needs of approved service delivery. All applications shall be submitted to the Section 151 Officer in accordance with the agreed year end timetable.

B10.2 Section 151 Officer approval is subject to evidence that the underspend is as a result of timing, has been committed for the **same purpose** as originally intended, and will be spent in the new financial year. The Section 151 Officer will report agreed carry forwards to the Cabinet each year.

B10.3 All other carry forward requests, including budget under spends that have been carried forward in previous financial years, will be subject to Full Council approval at the Financial Outturn meeting held after the year end (unless otherwise delegated under the constitution).

B11 Maintenance of Reserves

B11.1 Full Council must set the level of general reserves it wishes to maintain before it can decide the level of the Council Tax. Reserves are maintained as a matter of prudence. They enable the council to provide for unexpected events and thereby protect it from overspending should such events occur.

B11.2 The Section 151 Officer has a statutory obligation under the Local Government Act 2003 to report on the adequacy of the council's reserves to Cabinet and Full Council, at the time the Council considers its budget for the coming year.

B11.3 Reserves can be maintained for three main purposes:

- A working balance to help cushion the impact of uneven cash flows and avoid unnecessary temporary borrowing (This forms part of general reserves).
- A contingency to cushion the impact of unexpected events or emergencies (This also forms part of general reserves).
- A means of building up funds to meet known or predicted requirements (Earmarked reserves).

B11.4 The Section 151 Officer has delegated authority to approve in year transfers to and from earmarked reserves to support the activities of the council.

B11.5 The transfer to and from general reserves shall be the responsibility of Full Council. As part of the annual budget approval process, Full Council may delegate the amount by which such funds may be utilised and approved by Cabinet in meeting unforeseen expenditure.

C: Scheme of Virement

C1 Introduction

C1.1 The scheme of virement is intended to enable the Cabinet, Directors and Heads of Service and Budget Holders to manage budgets with a degree of flexibility within the overall Policy Framework determined by the council, and therefore to optimise the use of available resources.

C1.2 Virement is the switching of resources between approved budgets at a service or cost centre level. This transfer of budgetary provision may be used if additional expenditure is required on an existing budget, providing that an equal expenditure saving or additional income can be made on another budget, subject to the Virement Rules.

C2 Full Council

C2.1 Full Council is responsible for agreeing procedures for virement of expenditure between budget headings. The virement scheme is administered by the Section 151 Officer within the guidelines set by Full Council. Any variation from this scheme requires the approval of Full Council.

C2.2 Virement in excess of £100,000 are deemed to change the Budget and Policy Framework and require the approval of Full Council.

C3 Budget Variations within a Service

C3.1 Action to correct actual or projected variations in budgeted income or expenditure within an approved cost centre / service is delegated to the relevant Service Manager or Budget Holder. These variations should not have a financial impact on the approved net budget on the cost centre / service.

C4 Virement Rules/Limits

C4.1 The prior approval of the relevant Cabinet Member and the Section 151 Officer is required for any virement, of whatever amount, where it is proposed to vire as a result of a fortuitous increase in income to a cost centre not designated as Trading. The rules below cover the delegated virement limits.

C4.2 The following rules apply to virement between services:

C4.2.1 Revenue budgets:

- **Amounts up to £25,000 –**
Approval by relevant Director(s) or Head of Service(s). The Section 151 Officer should be informed of this virement.
- **Amounts over £25,000 but not exceeding £50,000 –**
Approval by Cabinet Member(s) in consultation with Section 151 Officer.
- **Amounts over £50,000 but not in excess of £100,000 –**
Approval of Cabinet.
- **Amounts in excess of £100,000 –**
Approval of Full Council, or as delegated in the constitution.

C4.2.2 Capital Schemes:

- **Amounts up to £50,000 –**
Approval of relevant Director(s) or Head of Service(s), with the agreement of the Section 151 Officer. Cabinet Member(s) to be informed.
- **Amounts over £50,000 but not exceeding £100,000 –**
Approval by Cabinet
- **Amounts in excess of £100,000 –**
Approval of Full Council, or as delegated in the constitution.

C4.3 Virement that is likely to have a financial impact on the level of service activity falling under the responsibility of another Director should only be implemented with the approval of each Director or Cabinet Member concerned.

C4.4 Virement must not be aggregated or disaggregated in order to avoid the Virement Rules.

C4.5 No virement relating to a specific financial year will be made after 31st March in that year.

C4.6 Where an approved budget is a lump sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- the amount is used in accordance with the purposes for which it has been established.
- the Cabinet or Full Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet or Full Council as required.

C4.7 The virement must not contravene any statutory requirement.

C4.8 All virement must be properly documented and approved. A record of all virement should be maintained by the Section 151 Officer and reported to the appropriate Cabinet Member.

D: Risk Management and Insurance

D1 Introduction

- D1.1** Risk is the chance of something going wrong which may result in loss, damage, injury, failure to achieve objectives or missed opportunity caused by an unwanted, uncertain or lack of action or event. It includes corporate and strategic risks. All organisations, whether they are in the private or public sectors, face risks to credibility, people, property and continued operations.
- D1.2** Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the organisation's opportunities and assets and to ensure its continued financial and organisational well-being. Risk management is, therefore, an integral part of good business practice.
- D1.3** It is essential that robust systems are developed and maintained for identifying and evaluating all significant opportunities and risks to the council as an integral part of management. This should include the active participation of all those associated with the planning and delivery of services.
- D1.4** The Council's Risk Management Policy and Strategy sets out criteria for risk assessment and guidance on how it should be managed.

D2 Cabinet

D2.1 The Cabinet is responsible for:

- Implementing the council's Risk Management Policy and Strategy.
- Promoting a culture of risk management awareness throughout the council
- Ensuring that adequate insurance cover exists where appropriate.

D3 Audit, Compliance and Governance Committee

D3.1 The Audit, Compliance and Governance Committee is responsible for:

- Approving the council's annual risk management strategy
- Ensuring that risk management procedures are satisfactorily carried out.
- Ongoing monitoring and review of the risk management strategy.

D4 Section 151 Officer

D4.1 The Section 151 Officer is responsible for:

- Preparing the Risk Management Policy & Strategy for Audit, Compliance and Governance Committee.
- Promoting the culture of Risk Management throughout the council.
- Advising the Cabinet on appropriate insurance cover for known insurance risks and assets owned and/or used in connection with the council's activities.
- The negotiation, and where appropriate, settlement, of insurance claims, in consultation with the Monitoring Officer and other Employees as appropriate.



- Ensuring that all appropriate Employees are included in a suitable fidelity guarantee insurance.
- Reviewing annually, or at any such other period considered necessary, all insurances, in consultation with Directors and other Employees as appropriate.

D5 Directors and Heads of Service

D5.1 Directors and Heads of Service are responsible for risk management and the regular review of risk and opportunity within their services, having regard to advice from the Section 151 Officer and other specialist Officers (e.g. Health & Safety Advisor).

D5.2 Directors and Heads of Service are responsible for:

- Actively managing opportunities and risk in their area of responsibility.
- Providing prompt notification to the Section 151 Officer for all new risks, properties, services or vehicles which require to be insured and of any alterations affecting existing insurances. This should include any areas of responsibility undertaken in respect of an external organisation, whether or not linked to the council's activities.
- Providing notification to the Section 151 Officer in writing of any loss, liability or damage or any event likely to lead to a claim. Further notification should be given to the Section 151 Officer immediately on receipt of any insurance claim.
- Consulting with the Section 151 Officer and the Monitoring Officer concerning the terms of any indemnity which the council is requested to give.
- Ensuring that all employees:-
 - are aware of their responsibilities for risk management and insurance.
 - receive adequate support and training to carry out their responsibilities.
 - comply with the council's standards of financial management.
 - are personally protected from risk.

D6 Budget Holders and Other Employees

D6.1 Budget Holders and other Employees are responsible for:

- Identifying opportunities and risks in their service areas.
- Assessing the likelihood of their occurrence and evaluating the possible impact. This involves arranging them in order of priority, recording the risks and judging the potential financial cost, lost time, inconvenience or upheaval, disruption to service, bad publicity or loss of service quality.
- Taking steps to minimise potential losses. Effective action will represent a judgement between the likely risk and the cost or effort required to safeguard against it.
- Notifying the Section 151 Officer promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurance.



- Notifying the Section 151 Officer immediately of any loss, liability or damage which may lead to a claim against the council, together with any information or explanation required by the Section 151 Officer or the council's insurers.
- Recording any incident which may result in a loss.
- Consulting the Section 151 Officer and the Monitoring Officer on the terms of any indemnities which the council is required to give.
- Ensuring that the council's employees, or anyone covered by the council's insurance, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of an insurance claim.

E: Internal Controls and Audit

E1 Introduction

- E1.1** Internal control refers to the systems of control devised by management to help ensure the council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the council's assets and interests are safeguarded.
- E1.2** The council faces a wide range of financial, administrative and commercial risks, both from internal and external factors. Internal controls are necessary to help manage these risks and to monitor progress towards its strategic objectives.

E2 Internal Audit

- E2.1** The Accounts and Audit Regulations 2015 require that the council must undertake an adequate and effective internal audit of its accounting records and of its system of internal control, in accordance with proper practices in relation to internal control.
- E2.2** The internal audit function should operate in accordance with the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, the Chartered Institute of Internal Auditors (UK and Ireland) Standards for the Professional Practice of Internal Auditing, and with any other statutory obligations and regulations.
- E2.3** Internal Audit shall provide an independent, objective, assurance and consulting activity for the review of the council's system of internal control.
- E2.4** The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the council's control environment under the CIPFA Code of Practice for Internal Audit in Local Government 2006.
- E2.5** The Head of Internal Audit has the right to meet the Chair of the Audit, Compliance and Governance Committee in private.
- E2.6** Internal Audit shall have direct access to the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, all levels of Management and Elected Members.
- E2.7** Internal Audit shall have full and complete access to all information, records, facilities and personnel relevant to the performance of an audit review.

E3 External Audit and Inspection

- E3.1** The Audit Commission is responsible for appointing external auditors to each local authority in England and Wales. The basic duties of the external auditors are defined in the Audit Commission Act 1998 and the Local Government Act 1999.
- E3.2** The external auditor's main objectives are to review and report on the financial aspects of the council's corporate governance arrangements, the financial statements and the arrangements to manage its performance.



E3.3 External Audit is responsible for considering whether the council has proper arrangements in place for:

- Securing financial resilience; reviewing the council's financial governance, financial planning and financial control processes.
- Challenging how it secures economy, efficiency and effectiveness; looking at how the council is prioritising resources and improving efficiency and productivity.

E3.4 The council may, from time to time, be subject to audit, inspection or investigation by other external bodies, such as HMRC, all of whom have statutory rights of access.

E4 Audit, Compliance and Governance Committee

E4.1 The Audit, Compliance and Governance Committee provides a broad base audit role across all areas of the council, while promoting and ensuring effective governance, internal control and assurance mechanisms.

Audit, Compliance and Governance Committee is responsible for:

- Reviewing internal and external reports and assessments in respect of corporate governance.
- Considering the Head of Internal Audit's annual report and opinion and annual internal audit plan and the level of assurance it gives over the council's corporate governance arrangements.
- Monitoring the operational Internal Audit plan and the audit planning process; ensuring that internal audit work is planned with due regard to risk, materiality and supports the council's corporate aims and priorities.
- Consulting with the Audit Commission (or equivalent) on the appointment of the council's external auditor.
- Consideration and review of the external audit annual Report to those charged with governance (ISA 260) and all associated reports and other documents.
- Reviewing all matters relating to external audit, including audit and inspection planning, action points and reports
- Monitoring and review of actions required arising out of external and internal audit recommendations.
- Ensuring effective liaison between external and internal audit and any other inspection agency.
- Reviewing and signing approval of the audited annual statement of accounts and annual governance statement, including the statement of the system of internal financial control by 30th September of each year following the financial year end.



E5 Section 151 Officer

E.5.1 The Section 151 Officer is responsible for:

- Advising and assisting the council to put in place a control environment which provides reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- Ensuring that an adequate and effective Internal Audit Service is maintained, with the authority to access all assets, records, documents, correspondence and control systems of the council, and such records belonging to third parties, such as contractors, when required.
- Ensuring that effective procedures are in place to investigate promptly any suspected fraud or irregularity.
- Ensuring that all External Auditors and Inspectors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
Working with the appointed External Auditors and Inspectors and advising the Audit, Compliance and Governance Committee, Cabinet, Directors and Heads of Service on their responsibilities in relation to external audit and inspection.
- Ensuring there is effective communication between External and Internal Audit.

E6 Directors and Heads and Service

E6.1 Each Director and Head of Service is responsible for:

- Establishing sound arrangements for planning, appraising, authorising and controlling their operations, in accordance with the Code of Corporate Governance and the Annual Governance Statement.
- Achieving continuous improvement, economy, efficiency and effectiveness within services.
- Implementing processes to check that established controls are being complied with and to evaluate their effectiveness.
- Reviewing existing controls and establishing new controls where necessary, in order to reflect changes within the council. They shall consult with Internal Audit on any proposed new systems, before implementation.
- Ensuring that Internal Auditors are given access to all records and assets of the authority, in accordance with their authority as set out above.
- Ensuring that all External Auditors and Inspectors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- Considering and responding promptly to recommendations in audit reports. Implementing agreed actions arising from audit recommendations in a timely and efficient fashion.
- Notifying the Section 151 Officer and the Head of Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources.
- Ensuring that, as far as possible, the same officer is not responsible for receiving or paying money and rendering accounts or issuing receipts for the same.

E7 Preventing Fraud and Corruption

- E7.1** The council has an Anti-Fraud and Corruption Policy / Strategy and maintains a culture which will not tolerate fraud or corruption. The council's expectation of propriety and accountability is that Members and all Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- E7.2** The council also expects that individuals and organisations (e.g. service providers, contractors and suppliers) that it comes in contact with, will act towards the council with integrity and without thoughts or actions involving fraud and corruption.
- E7.3** The Section 151 Officer is responsible for the development and maintenance of an Anti-Fraud, Corruption and Whistle-blowing Policy.
- E7.4** The Monitoring Officer is responsible for ensuring that all legislation, including the Public Interest Disclosure Act 1988, the Bribery Act 2010 and the Fraud Act 2006, is adhered to.
- E7.5** Each Director and Head of Service is responsible for ensuring that the systems operated within their control seek to prevent or minimise the opportunity for fraud, corruption or irregularity to arise. And that all staff are aware of and comply with the council's anti-fraud and whistle blowing policies.
- E7.6** Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the council, or any suspected irregularity in the exercise of the functions of the council, the Director or Head of Service has a duty to immediately notify the Section 151 Officer and the Monitoring Officer, who shall take such steps as they consider necessary by way of investigation and report.
- E7.7** All Members and Employees must be aware of the maintenance of the Register of Interests, which should be updated annually or more frequently if other changes occur. Any offer of hospitality or gifts must be recorded, whether accepted or refused.

E8 Ex-Gratia/Maladministration Payments

- E8.1** A payment is sometimes made to compensate someone for loss or damage incurred through no fault of the council. Most usually, this is to an employee who has suffered loss or damage in the course of their duties but can be to a member of the public for a minor loss within the influence of the council (such as thefts from secured lockers at Leisure Centres) This is funded through the council's insurance arrangements.
- E8.2** Compensation payments under the local complaints procedure up to £5,000 shall only be made following an investigation by the Section 151 Officer and a Director or Head of Service and/or the Monitoring Officer, and with the approval of at least two of those employees.



E8.3 Compensation payments in excess of £5,000 shall only be made following a report from one of the three employees named in Financial Rule E8.2, above and with the following approval:-

- Amounts £5,001 to £50,000 – by Cabinet Member
- Amounts £50,001 to £100,000 – by Cabinet
- Amounts in excess of £100,000 – by Council

F: Assets

F1 Introduction

F1.1 The council holds assets in the form of property, vehicles, equipment, furniture, cash and other items worth many millions of pounds. It is important that assets should be safeguarded and used efficiently in the delivery of services. Assets should be used to achieve the approved policies and objectives of the council with the minimum of waste, inefficiency or loss.

F1.2 This involves ensuring that appropriate assets are acquired, in line with the Council's Procurement Strategy; that they are recorded and kept securely and are disposed of effectively and economically when no longer required.

F2 Full Council

F2.1 Full Council is responsible for deciding the extent of the Property Portfolio and for agreeing acquisitions and disposals. Approval is delegated to Cabinet for acquisitions not exceeding £500,000, unless otherwise delegated in the constitution.

F2.2 Assets no longer required should be disposed off in accordance with the law and the rules and policies of the council, so as to maximise benefits.

F3 Cabinet

F3.1 The Cabinet is responsible for approving terms for land / property acquisitions, as above 2.1

F4 Chief Executive (or other delegated officer)

F4.1 The Chief Executive (or other delegated officer) is responsible for:

- Determining applications for the assignment of leases and granting sub-leases and under-leases and other applications for consent required by leases, as delegated in the constitution.
- Signing contracts for the sale or purchase of land, for which the disposal/acquisition has been agreed by the Cabinet or Full Council.

F5 Director or Head of Property Services (or other delegated officer)

F5.1 The Director or Head of Property Services is responsible for:

- Maintaining a terrier / asset register of all properties and assets owned by the council, in a form approved by the Section 151 Officer. This shall record the purpose for which the property is held, its location, its extent and plan reference, purchase details, particulars of nature of interests and rents payable and particulars of tenancies granted.
- Advising Members, the Section 151 Officer, Cabinet, Council and other Officers on property-related issues.
- Processing all authorised acquisitions and disposals of land and property.

- The maintenance of council-owned property including open-spaces. Such maintenance work to be carried out within the terms of contracts for responsive maintenance to Council properties.
- in the case of non-housing capital building contracts, consulting with the relevant Cabinet Member and the Section 151 Officer, where the contingency sum in the contract is likely to be exceeded. Financial Rules in respect of budget approval and /or virement are to be followed.

F5.2 The Director Finance and Assets (or other delegated Officer) has authority to sell surplus equipment on receipt of bids where appropriate, with the following notifications:-

- Estimated residual value not in excess of £25,000 – in consultation with the Section 151 Officer
- Estimated residual value £25,001 to £50,000 – in consultation with Section 151 Officer. Cabinet Member to be informed.
- Estimated residual value in excess of £50,000 – in consultation with the Section 151 Officer. Cabinet to be informed.

F6 Monitoring Officer (or other appropriate officer as delegated in the Constitution)

F6.1 The Monitoring Officer (or other delegated Officer), in consultation with the relevant Cabinet Members and relevant Ward Member(s) and the relevant Director, has authority, in the case of the resale of former Council houses, to give the Council's consent in all cases under Section 157(1) of the Housing Act 1985 where consent is obligatory and in other cases approved by the Cabinet; and authority to approve applications for the sale of former Council houses in Areas of Outstanding Natural Beauty.

F6.2 The Monitoring Officer (or other delegated Officer), in consultation with the relevant Ward Member(s) and a 48 hour period being allowed for any response to such consultation, has authority to approve all transactions relating to the council's properties (except residual housing land) within their existing classifications; including:

- New leases granted by the Council
- Determination of applications for the Council's consent as landlord, required under leasehold covenants, including assignments, sub-letting and alterations/improvements
- Rent reviews
- Lease terminations (including surrenders);
- Lease renewals
- Institution of proceedings for breach of any leasehold covenant (including recovery of rent arrears and forfeiture) and enforcement of any resultant Court Order or Warrants for Possession (in consultation with the Head of Property Services)
- Licences regulating the use or occupation of council property.



Such approval (where appropriate) is to be on terms recommended by the District Valuer, or an independent Valuer.

F6.3 The Monitoring Officer (or other delegated Officer), in consultation with the relevant Cabinet Member and the relevant Ward Member(s), has authority to agree the sale of Council-owned land on terms recommended by the District Valuer, or an independent Valuer, where the following conditions are fulfilled:

- The sale price of the land and easements does not exceed £50,000 and easements up to £25,000 per annum
- The terms of the sale are not unusual or contentious.
- The Cabinet Member and the Ward Member(s) have no objection to the sale.

F6.4 The Monitoring Officer (or other delegated Officer) has similar delegated authority in relation to land purchases and easements, as set above.

F6.5 The Monitoring Officer (or other delegated Officer), in consultation with the appropriate Director and Head of Property Services, has authority to approve the granting of way leaves, licences and other rights of use in respect of Council property.

F6.6 The Monitoring Officer (or other delegated Officer) has the authority to instigate any investigations they consider necessary in particular cases regarding the lease of Council-owned commercial premises.

F6.7 The Monitoring Officer (or other delegated Officer) shall have custody of all title deeds under secure arrangements agreed with the Chief Executive.

F7 Section 151 Officer

F7.1 The Section 151 Officer is responsible for:

- Ensuring that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. The purpose of an asset register is to provide the Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and are adequately maintained.
- Ensuring that assets are valued in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.
- Maintaining a property database for all land, properties, plant and machinery, and moveable assets currently owned and used by the Council.
- Managing the risk implications of the Property Portfolio, particularly in terms of insurance cover.
- Co-ordinating the security of the council's administrative and operational offices.

F8 Directors, Heads of Service and Budget Holders

F8.1 Directors, Heads of Service and Budget Holders are responsible for:

- Ensuring that records and assets are properly maintained.
- Drawing up contingency plans for the security of assets and continuity of service in the event of disaster or system failure.
- Ensuring that lessees and other prospective occupiers of council land or property are not allowed to take possession or enter the land until a lease or agreement has been established. The lease or agreement should be in a form approved by the Head of Property Services, in consultation with the Section 151 Officer and the Monitoring Officer, where appropriate.
- Ensuring the proper security and safe custody of all buildings, vehicles, equipment, furniture, stock, stores, money and other property belonging to the council.
- Where land or buildings are surplus to requirements, preparing a report containing a recommendation for the disposal of the land, in consultation with the Head of Property Services and the Section 151 Officer.
- Maintaining an inventory of moveable assets (all furniture, fittings and equipment, plant and machinery) above the value of £1,000, held within their areas of responsibility. The Director or Head of Information Community Technology shall maintain a separate register of all ICT equipment, on behalf of the council, as per financial rule F9.2.
- Passing title deeds of council property to the Monitoring Officer who is responsible for the custody of all title deeds on behalf of the council.
- Ensuring that council assets are not taken, borrowed or used by a Member or Employee for their personal use without proper authority.
- Ensuring, in accordance with arrangements agreed by the Section 151 Officer that all assets are correctly identified and insured.
- Notifying the Section 151 Officer and the Director or Head of Property Services of any proposals to acquire or dispose of council property.
- Arranging for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- Ensuring that all Employees under their management are aware that they have a personal responsibility with regard to safeguarding the council's assets and information, including the requirements of the Data Protection Acts and software copyright legislation. This should include confidentiality of information, whether held in manual or computerised records.

F9 Information and Communication Technology

F9.1 All ICT equipment, irrespective of its individual value, shall be procured by, or with the prior approval of the Director or Head of Service responsible for ICT Services

(or their delegated Officer), particularly where the equipment has a strategic value or requires network access.

- F9.2** This Director or delegated Officer shall maintain a register of all ICT equipment above the value of £500 owned by the council, including its location and serial number.
- F9.3** Certain equipment to be determined by the Director or Head of Service responsible for Information Communication Technology, such as cameras, mobile phones, etc shall be procured by them and recorded in the ICT inventory.
- F9.4** The Council's internal IT policy and guidance should be followed, and in particular, no unofficial or unlicensed software shall be used on the council's computer equipment, under any circumstances.
- F9.5** Computer games supplied as part of licensed software shall not be played in council time.
- F10 Stocks and Shares**
- F10.1** Disposable items such as stationery, goods for sale or materials may be held in store. They should be properly controlled and accounted for to ensure they are used only for council purposes.
- F10.2** Stocks shall not be in excess of normal requirements except in special circumstances, with the approval of the Director or Head of Service, who shall keep a written record and justification of such circumstances.
- F10.3** Each Director or Head of Service shall be responsible for the care and custody of the stocks and stores within their service(s).
- F10.4** Directors or Heads of Service shall arrange for periodical test examinations of stocks and ensure that all stocks are checked at least once a year, where appropriate, as determined by the Section 151 Officer. This is to be under the supervision of persons without direct responsibility for the custody of the stocks or stores being checked.
- F10.5** The Section 151 Officer shall be entitled to receive from each Director or Head of Service such information as he or she requires in relation to stocks or stores, for the accounting, costing and financial records at the financial year end.
- F10.6** Budget holders are responsible for investigating discrepancies and pursuing them to a satisfactory conclusion. Where this is not possible or the amount is over £500, this should be reported to the Section 151 Officer and Head of Internal Audit.
- F10.7** Adjustments in respect of stock deficiencies and surpluses shall be subject to the approval of the Section 151 Officer, or in the case of major items, the Cabinet.
- F10.8** Private individuals or companies shall not be permitted to purchase items previously acquired by the council unless they:



- Are sold through a retail outlet incidental to the provision of a specific service (e.g. Leisure centre or Museum shop), or
- Are obsolete or surplus to requirements and are sold as a means of disposal, in accordance with the council's disposal policies.

F10.9 Individual Members and Employees of the council must not use the auspices of the council to purchase works, goods or services for their personal use.

F11 Write-offs

F11.1 Limit of the council to write off and/or dispose of obsolete stock, per individual item:

- Estimated residual value up to £500 - Directors or Heads of Service.
- Estimated residual value over £500 - Section 151 Officer.

F11.2 At any one time up to £5,000 may be written out of stock records with the Section 151 Officer approval. If the accumulated amount to be written out exceeds £10,000 during the financial year, a report must be made to Cabinet. Individual amounts in excess of £5,000 shall be approved by Cabinet.

F13 Intellectual Property

F13.1 Intellectual Property is a generic term that includes inventions and writing. If these are created by an Employee during the course of employment, as a general rule they belong to the Employer. There is a variety of legislation covering different types of intellectual property.

F13.2 Certain activities undertaken by the council may give rise to items which are patentable e.g. the development of software. These are collectively known as Intellectual Property.

F13.3 The Monitoring Officer, in conjunction with Section 151 Officer shall determine a policy and procedure guidance relating to intellectual property of the Council.

F13.4 Directors and Heads of Service are responsible for implementing the council's intellectual property procedures and for putting controls in place to ensure that Officers do not carry out private work in the council's time.

F13.5 Officers should be made aware of the Employer's rights with regard to intellectual property.

G: Treasury Management

G1 Introduction

- G1.1** Many millions of pounds pass through the council's books each year and must be carefully managed in a way which balances risk with return, but with the overriding consideration being the security of the council's funds.
- G1.2** The general policy objective is that the council should invest prudently the surplus funds held on behalf of the community, giving priority to security and liquidity of the funds.
- G1.3** The council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities. All of the council's borrowings and investments are carried out in accordance with this code.

G2 Full Council

- G2.1** Full Council is responsible for approving the Treasury Management Policy / Strategy Statement, proposed by the Cabinet, setting out the matters detailed in CIPFA's Code of Practice for Treasury Management in Local Authorities.

G3 Cabinet and other appropriate Committees

- G3.1** The Cabinet is responsible for:
- Proposing the Treasury Management Policy Statement to the Council, in accordance with advice from the Section 151 Officer.
 - Decisions relating to Treasury Management within the Policy Statement.
 - Deciding an annual Treasury Management Strategy Statement and Annual Investment Strategy.
 - Implementing and monitoring performance against the Treasury Management Policy Statement.
 - Delegating responsibility for borrowing, investment and financing to the Section 151 Officer.

G4 Section 151 Officer

- G4.1** The Section 151 Officer is responsible for:
- Controlling all money in the hands of the council.
 - Acting in accordance with the CIPFA's Code of Practice for Treasury Management in Local Authorities.
 - Reporting to the Cabinet a proposed Treasury Management Strategy for the coming financial year at or before the start of the financial year.
 - Implementing and monitoring the council's Treasury Management Statement.
 - Reporting to the Full Council twice in each financial year on treasury management activity and prudential indicators and the exercise of his or her delegated treasury management authority. One such report will comprise an



annual report on treasury management outturn, for presentation by 30th September of the succeeding financial year.

- Ensuring that all investment and borrowing is made in the name of the council.
- Ensuring that all securities that are the property of the council and the title deeds of all property in the council's ownership are held securely.
- Acting as the council's registrar of stocks, bonds and mortgages and maintaining records of all borrowing and investment of money by the council.
- Arranging for all trust funds to be held, where possible, in the name of the council. All Officers acting as Trustees by virtue of their official position, shall deposit securities, etc. relating to the trust with the Section 151 Officer unless the deed otherwise provides.
- Where funds are held on behalf of third parties, arranging for their secure administration, approved by the Section 151 Officer, and maintaining written records of transactions.
- Ensuring that all trust funds are operated within any relevant legislation and the specific requirements of each trust.

G5 Banking Arrangements

G5.1 The Section 151 Officer is responsible for:

- Operating bank accounts as they consider necessary. No bank accounts may be opened in the council's name, or closed, without the prior approval of the Section 151 Officer.
- Instructing the council's bankers to prohibit an overdrawn position on the aggregate bank accounts of the council beyond the level set out in the facilities agreement between the council and its bankers.
- Ensuring that an up to date list of all authorised bank signatories on the council's bank accounts is maintained and made available to the council's bankers.
- Ensuring that an up to date list of Officers holding Business Charge Cards or Government Procurement cards on behalf of the council is maintained, showing individual approved credit limits.
- Advising on secure arrangements for banking and cash handling.

G5.2 Directors and Heads of Service are responsible for:

- Ensuring that banking and cash handling is carried out in accordance with Financial Rules.
- Ensuring that Officers are properly trained and aware of their responsibilities.

- Ensuring that Officers are personally protected against risk.
- Ensuring that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the Section 151 Officer.

G5.3 Budget Holders are responsible for:

- Ensuring that all Officers are aware of the controls required over banking and cash handling and follow instructions thereon.
- Ensuring that cash held on the premises is kept to a minimum, held securely, and is always within the limits agreed with the council's insurers. Cash in excess of these limits should be banked before the end of the day. Cash should not be held at an Officer's home as this may negate the Council's insurance cover.
- Holding change floats issued to the service by the Section 151 Officer and accounting for them when required to do so.
- Ensuring that keys to safes and other receptacles used for holding cash are kept secure by the person of those responsible at all times. Loss of keys must be reported to the Section 151 Officer as soon as possible.
- Ensuring that, where money passes from one Officer to another, there are procedures in place to evidence the transfer, the amount and the certification of the Officers involved.
- Ensuring that Council money is not kept with or confused with unofficial funds, e.g. tea, lottery or pools funds.
- Ensuring that payments are not made from cash received.
- Implementing documented procedures for recording, receipting and banking money. Banking should be carried out as frequently as is necessary to keep the amount of money within insurance limits. Each deposit to the bank should be accompanied by a properly completed bank paying-in slip showing:
 - the name and title of the Officer making the banking.
 - the total deposited, analysed in denominations of cash and cheques.
 - the name of the cheque payees and a debtors reference, where this is available, on the reverse of the slip (also on the reverse of the cheque where payment is by cheque).

N.B. Cheques received to a value in excess of £10,000 must be banked on the day of receipt.

- Reconciling income records to the Council's financial information system, checking that all money received has reached the correct budget head. Discrepancies should be investigated and corrected immediately.



G6 BACS payments and Cheques

- G6.1** The payment of all monies from the council, with the exception of sums payable from advance accounts or business credit cards, shall be by BACS or other instrument drawn on the council's bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.
- G6.2** All BACS transmissions, irrespective of value, will be supported by an authorisation form signed by the Officer responsible for producing the payment, plus either the Section 151 Officer or another authorised bank signatory.
- G6.3** All individual cheques drawn for an amount in excess of £25,000 shall be countersigned by another authorised Employee, who shall be an authorised bank signatory to the bank account.
- G6.4** All cheque stocks shall be ordered only on the authority of the Section 151 Officer, who shall make proper arrangements for their safe custody.
- G6.5** All cheques drawn on the council's main bank accounts shall bear the facsimile signature of the Section 151 Officer or other employee authorised to do so.
- G6.6** All manually prepared cheques for an amount in excess of £5,000 shall be countersigned by another authorised employee, who shall be an authorised bank signatory to the bank account.



H: Financial Systems and Accounting Procedures

H1 Introduction

H1.1 Sound systems and procedures are essential to an effective framework of accountability and control. They are needed to ensure that accounting records can be relied upon to present a true and fair view of the council's financial activity and that management information is appropriate, accurate and timely.

H1.2 The council must operate within legal requirements and adopt best practice guidance. The council will follow the CIPFA Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice for Local Authorities.

H2 Section 151 Officer

H2.1 The Section 151 Officer has a statutory and professional responsibility for ensuring that the council's financial systems are sound and for making arrangements for the proper administration of the council's financial affairs, including:-

- Selecting suitable accounting policies that comply with legislation and best practice guidance, and ensuring that they are applied consistently.
- Determining the accounting systems and procedures, form of accounts and supporting financial records.
- Issuing advice, guidance and procedures for Officers and others acting on the council's behalf.
- Establishing arrangements for the audit of the council's financial affairs.
- Approving any new financial system to be introduced and any changes to be made to existing financial systems.
- Producing timetables for accounting tasks such as the production of budgets and final accounts and the collection or submission of other financial information for processing (e.g. Accounts Payable deadlines).
- Ensuring that all suspense and holding accounts are controlled and reconciled on a monthly basis.
- Ensuring that all bank accounts are controlled and reconciled to the main accounting system regularly (at least monthly) to confirm that all transactions have been processed into the Council's accounts.

H2.2 The Section 151 Officer has a statutory responsibility for ensuring that the annual Statement of Accounts is prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice for Local Authorities.

H3 Directors, Heads of Service and Budget Holders

H3.1 Each Director or Head of Service shall ensure that all financial and computerised systems for which he or she is responsible are adequately controlled and comply with the requirements laid down by the Section 151 Officer. Any proposed changes



to these systems / procedures or any new systems / procedures must be also approved by the Section 151 Officer.

H3.2 Directors, Heads of Service and Budget Holders are responsible for:-

- The proper operation of financial processes in their areas of responsibility and ensuring that all Officers under their management are aware of, and properly operate, the financial systems relevant to their area of work.
- Establishing and maintaining sound financial processes within their areas of management.
- Documenting systems and ensuring that Officers are properly trained in their use.
- Ensuring that financial transactions are recorded in a timely and accurate manner, and are processed into the main accounting system using correct accounting codes. Transactions should not be processed to incorrect accounting codes as a way of avoiding virement rules.
- Using only their own accounting codes unless they have the express written permission of another Budget Holder to use theirs.
- Properly recording the nature and value of income, expenditure and assets and referring to original documentation where possible.
- Ensuring that income and expenditure are accounted for separately and are not set off against each other.
- Accounting for revenue and capital income and expenditure separately.
- Maintaining a complete audit trail allowing financial transactions to be traced from the accounting records to the original documentation and vice versa.
- Ensuring that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements under Data Protection legislation, approved by the Section 151 Officer.
- Implementing organisational structures that provide adequate segregation of duties to minimise the risk of fraud, error or other malpractice. In particular, ensuring that Employees charged with the duty of examining and checking the amounts of cash transactions (or cash equivalents) shall not themselves be engaged in any of these transactions.
- Establishing an effective scheme of delegation, identifying Officers authorised to act on their behalf in respect of financial transactions, determining the limits of their authority and ensuring that the scheme operates effectively.
- Supplying a written record of authorised Officers within his or her area of responsibility, with specimen signatures and delegated limits, to the Section 151 Officer, and ensuring they are maintained up-to-date. Directors shall still remain responsible for the activities of delegated functions.
- Implementing and documenting effective contingency arrangements in a disaster recovery plan, including back-up procedures, to allow systems to resume operation quickly in the event of an interruption in service. Wherever

possible, back-up information should be securely retained in a fireproof location, preferably off-site, or in an alternative location within the building.

- Ensuring that computer and other systems are registered in accordance with Data Protection legislation and that staff are aware of their responsibilities under this and the Freedom of Information legislation.
- Carrying out accounting tasks to meet the standards and timescales set by the Section 151 Officer or his delegated Deputy.

H4 Employees

- H4.1** Each nominated employee shall ensure that all financial and finance related systems are reconciled to the council's main financial management system quarterly, unless more frequent reconciliation is required by the Section 151 Officer.
- H4.2** Any amendments to a prime record should be made in ink and initialled by the Employee making it. Correcting fluid, or any other means of obliteration, shall not be used to amend prime financial records.

H5 Orders for works, goods and services

- H5.1** Requisitions and official orders shall, in addition to any requirement under the Contracts Procedure Rules, be in a form approved by the Section 151 Officer and are to be authorised only by Employees designated for that purpose.
- H5.2** Requisitions and official orders shall be issued for all works, supplies or services to be supplied to the council, except for supplies of public utility services, periodical payments such as rent or business rates, for petty cash purchases or such other exceptions as the Section 151 Officer may approve.
- H5.3** Requisitions or official orders shall clearly indicate the nature and quantity of the work or services required and any relevant contract or agreed prices.
- H5.4** Each requisition and order shall conform to the guidelines contained in the council's Contract Procedure Rules.
- H5.5** Prior to placing an order Employees shall ensure that provision has been made in the budget for the cost of the works, goods or services to be supplied. Where applicable, these should comply with European Community Directories and prescribed procedures.
- H5.6** All goods and services shall only be ordered by an authorised Officer, in accordance with written delegations and procedures.
- H5.7** All orders for goods and services must be approved by budget holders before being issued to the supplier. The approval limits will normally be assigned in accordance with the following levels of authority:-

- Authorised Budget Holder –Up to £25,000, subject to individual approved limit
- Budget Holder or Manager –£25,001 to £50,000, subject to individual approved limit
- Manager or Director or Head of Service– £50,001 to £100,000, subject to individual approved limit
- Director or Head of Service or Section 151 Officer or Deputy Section 151 Officer – £100,001 to £250,000
- Chief Executive, Section 151 Officer or Deputy Section 151 Officer– Amounts over £250,000

Each Director or Head of Service will agree the appropriate approval limit for individual Officers within their service with the Section 151 Officer or Deputy Section 151 Officer, based on their level of responsibility and/or their budget amounts.

- H5.8** All ICT equipment, irrespective of its individual value, shall only be procured by, or with the prior approval of the Director responsible for ICT Services (or his or her delegated Officer), particularly where the equipment has a strategic value or requires network access.
- H5.9** All goods and services received shall be checked, to ensure that they are in accordance with the order, are for the correct quantity and quality standards and that any work has been completed satisfactorily. Proper entries shall be made in inventories or stores records, where appropriate.
- H5.10** All orders should be checked to ensure prices, calculations, trade discounts, other allowances and credits are correct
- H5.11** All expenditure, including VAT shall be accurately recorded against the correct allocated budget and any exceptions corrected.
- H5.12** All appropriate evidence of the transaction and payment documents shall be retained and stored for the defined period, in accordance with the council's document retention schedule.

H6 Payment of Accounts

- H6.1** The payment of all monies from the council, with the exception of sums payable from advance accounts or business credit cards (if applicable), shall be by BACS or other instrument drawn on the council's bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.
- H6.2** Payment will only be made if the budget holder is satisfied that the requirements of Financial Rules H5.9 and H5.10 have been met. All payments should be made to the correct organisation /individual, for the correct amount.
- H6.3** VAT invoices must not be altered. If the amount of the invoice is incorrect, either a replacement or a credit note shall be requested
- H6.4** Payment will not be made on the basis of a statement or a reminder account.

- H6.5** Payments shall be made within 30 days of receipt by the council or within any mutually agreed terms, in order to avoid the possibility of penalty interest becoming payable.
- H6.6** Any penalty interest becoming payable under the Late Payment of Commercial Debts (Interest) Act 1998 shall be charged back to the appropriate budget head unless, in the view of the Section 151 Officer, unreasonable delays were occasioned by another Employee.
- H6.7** A Director must consult with the Section 151 Officer before entering into any mutual payment terms with a supplier. All such agreements must be made in writing.
- H6.8** Prepayment for goods and services should be avoided where possible, in order to minimise risk to the council.
- H7 Payments to Employees and Members**
- H7.1** The interpretation and application of pay scales, conditions of service and other related matters shall be the responsibility of the Head of Paid Service (Chief Executive), with whom Directors shall confer, as necessary, in connection with their application to employees in their areas of responsibility.
- H7.2** The Section 151 Officer is responsible for ensuring that budget provision exists for all existing and new employees and for making all payments of salaries and wages to all staff and Members, in accordance with agreed terms and conditions and timescales.
- H7.3** The Section 151 Officer is responsible for the maintenance of proper national insurance, income tax and other statutory pay records and for the accurate and timely payment of pension contributions and other deductions to third parties.
- H7.4** The Head of Human Resources, in consultation with the Section 151 Officer, shall approve and control the arrangements for payments of salaries and wages to all staff, including the process for payments for overtime and for payment of allowances to Members.
- H7.5** Directors and/or Managers must notify Human Resources, as early as possible of all appointments, dismissals, resignations, absences from duty, transfers and proposed changes of employees, together with such other information as is necessary to maintain adequate personnel records for the council.
- H7.6** No new appointments or changes to arrangements for existing employees are permitted without adequate budget provision. All appointments shall be made in accordance with the council's rules and approved establishments, grades and scales of pay.
- H7.7** Directors and/or budget holders are responsible for the monitoring of spending against approved employee-related budgets, ensuring that the manpower budget is not exceeded without appropriate authority and that it is managed to enable the agreed level of service to be provided.

H7.8 All Employees and Members shall notify Human Resources Service of any discrepancy between what they expected to be paid and what they have received, including payments made in error. In the event of an overpayment the recipient will normally be asked to refund the council over the same time period for which the error was made. If the council makes an underpayment it will be corrected as soon as is reasonably practical, each case being agreed individually. Failure to report an overpayment may result in disciplinary action.

H8 Travel and Subsistence Claims

- H8.1** Claims for payment of allowances, travelling and subsistence following the process approved by the Head of Human Resources, in consultation with the Section 151 Officer.
- H8.2** Claims shall normally be submitted monthly and always by the end of April following the financial year end. Employees are responsible for ensuring that journeys made and expenses claimed have been properly incurred and supporting VAT receipts are obtained. All claims to be authorised by an employee's line manager.
- H8.3** The council reserves the right not to pay any travel and/or expense claims that are not submitted in a timely manner, without good reason. Line Managers are responsible for approving or not approving all claims. In the case of any queries, line Managers should consult with their Director or Head of Service.

H9 Value Added Taxation

- H9.1** The Section 151 Officer is responsible for advising Directors and Heads of Service and Members, in the light of guidance by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the council. Written advice shall be made available to all relevant Employees.
- H9.2** The Section 151 Officer is responsible for maintaining the council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- H9.3** The Section 151 Officer or his /her authorised representative shall be responsible for liaising with HM Revenue and Customs on all VAT related matters and for submitting and signing the necessary returns/claims in a timely manner.
- H9.4** VAT must be correctly claimed on expenditure (Input Tax) and valid tax invoices retained by the council
- H9.5** VAT must be correctly charged on income from works, goods and services supplied by the council (Output Tax) and a valid VAT invoice or VAT receipt issued to any party outside the council, in accordance with the form approved by the Section 151 Officer.
- H9.6** Under no circumstances shall an Officer or Member use the auspices of the council to purchase goods or services for their own private purposes to avoid paying VAT. To do so may result in disciplinary action.



H10 Trading Accounts/Business Units

- H10.1** It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units. These shall be accounted for in accordance with CIPFA's Service Reporting Code of Practice.
- H10.2** The Section 151 Officer shall be consulted if a business unit wishes to enter into a contract with a third party, where the contract exceeds the remaining life of their main contract with the council. In general, such contracts should not be entered into unless they are capable of being terminated within the main contract period without penalty.
- A service designated as a trading service may increase expenditure estimates approved by the Council, in consultation with the relevant Director and Cabinet Member and the Section 151 Officer as a result of increased income, in line with the virement rules set out in the Financial Rules.
- H10.3** A trading account or business unit for the provision of sports, recreation or cultural activities may increase its fees and charges during the year in order to remain in line with competitors and demand, in consultation with the relevant Cabinet Member.

H11 Journals

- H11.1** All journal entries and other daily input into the Financial Management system (Agresso Business World) may only be processed by authorised Employees, with the approval of the Section 151 Officer.
- H11.2** Journals shall only be processed within the general ledger of the council. No journals are permitted between different company / council general ledgers.
- H11.3** The Section 151 Officer is responsible for ensuring that a monthly report of all journals raised on the finance system is produced and retained for audit purposes.

I: Income

I1 Introduction

- I1.1** The council seeks to maximise its income to enable it to meet its financial objectives. The Local Government Act 2003 enables authorities to charge for discretionary services. Sources of income need to be identified and fees and charges authorised at an appropriate level.

I2 Cabinet

- I2.1** The Cabinet is responsible for:-

- Setting fees and charges for services, approved as part of the annual budget setting process.
- Approving procedures for the write off of bad debts.
- Approving the write off of bad debts in excess of the approved Section 151 Officer limit, under Financial Rule I9

- I2.2** Statutory fees and charges shall be set in accordance with the relevant legislation and the prescribed notice period for changes to fees and charges shall be given.

- I2.3** Non statutory fees and charges may be increased or reduced during the year by the Director or Budget Holder, in order to remain in line with competitors and demand, in consultation with the relevant Cabinet Member.

I3 Section 151 Officer

- I3.1** The Section 151 Officer is responsible for:-

- Agreeing arrangements made for the collection of income due to the council and approving the procedures, systems and documentation for its collection.
- Ensuring that all claims for funds, including grants are made by the due date
- Agreeing the arrangements for ordering and supplying all receipt forms, books or similar items and satisfying him/herself regarding the arrangements for their control.
- Operating the approved procedures for the write off of bad debts (Financial Rule I9).
- Recommending to Cabinet the fees and charges to be set for all services.

I4 Directors and Heads of Service

- I4.1** Each Director or Head of Service is responsible for:-

- Recommending to the Section 151 Officer the fees and charges to be set for goods or services falling within their control, apart from those charges fixed on a statutory or nationally agreed basis (this shall not apply to ad-hoc charges of a minor nature where a flexible pricing policy has been agreed,



charges associated with partnership working which are set on a cost recovery basis, or rechargeable works).

- Informing the Section 151 Officer and relevant Cabinet Member of the particulars of all new sources of income arising from the work of their service, as soon as it becomes known.
- The identification, prompt collection, control and monitoring of all income due to the council within their area of responsibility.

I5 Budget Holders

I5.1 Budget Holders are responsible for:-

- Identifying all activities in their areas of management for which charges should be made, to whom, when, how much and whether VAT should be added.
- Maximising income within the council's policies and legislation.
- Maintaining a record of all income due to the council, including details of contracts, leases, grants and other arrangements.
- Ensuring that all income generated by their service is accounted for and that proper records are maintained, using systems and documentation approved by the Section 151 Officer.
- Ensuring that all Employees under their management are aware of, and operate, the internal controls that exist in their area.
- Where money is to be collected by debtor account, ensuring that the details of work done, goods supplied, services rendered or other amounts due, are correctly recorded and the debtor accounts rendered promptly.
- Assisting in the collection of debts that they have originated by providing further information requested by the debtor and by pursuing the debt on the Council's behalf and taking prompt action to recover debts, in conjunction with the Section 151 Officer, whilst having regard for the cost of collection. Debtor accounts should be reviewed regularly to identify unpaid accounts and recovery action required.
- Where responsibility for the collection of a debt has not been passed to the Section 151 Officer, establishing and initiating appropriate recovery procedures, including legal action, where necessary, for debts which have not been paid promptly.
- Ensuring that at least two employees are present when post is opened so that money received by post is properly identified, recorded and accounted for.
- Securing all income to safeguard against loss or theft and ensuring the security of cash handling.
- Ensuring that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received and that appropriate details are recorded on the paying-in slip to provide a complete audit trail.



- Ensuring that no expenditure is paid from income received.
- Reconciling income systems with the council's main accounting system monthly to ensure that all income received has reached the correct budget head and investigating where there is a discrepancy.
- Monitoring levels of income received and outstanding to establish trends and anomalies which should be investigated.
- Notifying the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31st March, in line with the financial year end timetable.

I6 Employees

- I6.1** Personal cheques must not be cashed from Council money nor cash advances taken against credit card transactions out of any money held on behalf of the Council.

I7 Accounts Receivable (Debtors Invoices)

- I7.1** A Budget Holder or delegated Officer must authorise all debtors' invoices for amounts less than £5.00, and all credit notes raised, irrespective of value.
- I7.2** VAT must be properly recorded. Failure to do so may result in the council being unable to reclaim VAT and, in some circumstance, a penalty payment imposed by HMRC.
- I7.3** Cash payments must be checked on receipt. In situations where electronic receipting is not available, an official, sequentially numbered receipt must be issued for a cash payment at the time of its receipt. A receipt must be issued for other forms of payment if requested by the payer. The transfer of all money between officers must be documented and the recipient should sign a receipt.
- I7.4** Payments received in "Full and Final Settlement" shall only be accepted and accounted for if they are sufficient to clear fully the appropriate debt, unless with the approval of the Section 151 Officer and the Monitoring Officer.

I8 Debt Recovery Procedures

- I8.1** Once raised, a debtor's invoice may not be cancelled except by full payment, the issue of a credit note or by its formal writing off. A credit note can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, or to recognise that an overpayment of housing benefit is being recovered from an on-going benefit entitlement.
- I8.2** There must be proper documented systems for the payment of outstanding debtors' invoices, including milestones and timelines, which shall be followed by delegated Officers.
- I8.3** Outstanding debtors that are to be chased through legal proceedings are to be dealt with following the council's debt recovery procedures.



18.4 Interest can be charged on unpaid debts, in accordance with the debt recovery procedures.

18.5 Solicitor fees incurred in the recovery of unpaid debt can be charged to the debtor, in accordance with debt recovery procedures.

19 Write off of unrecoverable debts

19.1 The limits on the council to write off individual debts are:-

- The Section 151 Officer can write off any debt for which notice of bankruptcy, Liquidation, any Insolvency Procedure or Company Restructuring Plan has been received and a claim submitted
- The Section 151 Officer can write off any debt of a deceased person where there are insufficient assets in the estate.
- The Section 151 Officer can write off any debt where despite exhaustive enquiries the debtor cannot be traced. The debt will be written back should the debtor be found
- The Section 151 Officer can write off any debt where a court has ordered that the amount be remitted
- The Section 151 Officer can write off any debt where a company has ceased trading leaving no assets
- The Section 151 Officer can write off any debt which cannot be legally enforced e.g. debtor moved abroad
- The Section 151 Officer can write off any debt in respect of which a hardship application in respect of business rates has been approved
- The Section 151 Officer can write off any other individual debt to a maximum amount of £10,000, where the amount is unlikely to be recovered or where proceedings are inappropriate or unjustified. This authority cannot be delegated.
- All other individual debts, in excess of £5,000 can only be written off with the approval of Cabinet or other delegated Committee.

19.2 The value of unrecoverable debts written off will be charged back against the cost centre / service from which the original invoice was raised, thus canceling the original credit to the service. This can be overwritten in exceptional circumstances, with the approval of the Section 151 Officer.

19.3 A record will be maintained by the Section 151 Officer of all bad debts written off under delegated approval given by Financial Rules above.

19.4 The Section 151 Officer can delegate the waiving of standard off-street car park charge notices to the Director or Head of Service responsible for Car Parking, who shall maintain records detailing the reason and amounts waived. This authority cannot be delegated further. The records shall be made available to the Section 151 Officer or Cabinet on request.

J: Council Tax and Non-Domestic Rates

J1 Introduction

J1.1 The council collects large amounts of money for its own purposes, for other authorities and, in the case of Non-Domestic Rates, for the Government.

J1.2 The rules that apply to the collection of these sums are set out in legislation, regulation and good practice guidance.

There are documented procedures and a timetable for tax calculation, billing, refunds, recovery and enforcement that accord with statutory requirements and the council's own regulations.

J2 Section 151 Officer

J2.1 The Section 151 Officer is responsible for the collection and recovery of Council Tax and Non-Domestic Rates. He or she should ensure that accounting procedures are in place to support the correct treatment and presentation of transactions in the council's accounts.

J3 Head of Revenues and Benefits

J3.1 The Head of Revenues and Benefits is responsible for the day to day management of the Council Tax and Non-Domestic Rates systems. He or she should ensure that:-

- All transactions, records and accounts are calculated accurately, completely and promptly. They should be supported by evidence and handled only by authorised staff.
- Adequate separation of duties is in place to enable the work of one Officer to be subject to check by another.
- Accounting procedures reflect the correct treatment and presentation of transactions in the Council's accounts.



K: Council Tax Benefit and Housing Benefit

K1 Introduction

K1.1 The council is responsible for paying Council Tax Benefit and Housing Benefit to entitled claimants. It is also responsible for guarding against fraud and investigating where it is suspected. The council receives subsidy from the Government to pay for most of the Benefits. It has to demonstrate sound administration and accurate payment to prove its entitlement to subsidy.

K1.2 All benefit transactions must be legitimate, appropriate and in accordance with relevant verification framework regulations.

K2 Section 151 Officer

K2.1 The Section 151 Officer is responsible for the payment of Council Tax Benefit and Housing Benefit. He or she should ensure that accounting procedures are in place to support the correct treatment and presentation of transactions in the Council's accounts and subsidy claims.

K3 Head of Revenues and Benefits

K3.1 The Head of Revenues and Benefits is responsible for the day to day management of the Council Tax Benefit and Housing Benefit systems. He or she should ensure that:-

- All transactions, records and accounts are calculated accurately, completely and promptly. They should be supported by evidence and handled only by authorised staff.
- Adequate separation of duties is in place to enable the work of one Officer to be subject to check by another.
- Overpayments are dealt with in accordance with the Council's policy and recovery is efficient and effective.
- All fraud prevention and detection is in accordance with statute, professional guidance and the council's financial rules and other policies.

L: External Arrangements

L1 Partnerships

L1.1 Introduction

The council provides a distinctive leadership role for the community and brings together the contributions of a variety of stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of its area.

Partnerships play a key role in delivering community strategies and delivering the shared vision of services, based on user needs.

A partner is defined as being either an organisation (public or private) undertaking, part funding or participating in a project or a body whose nature or status gives it a right or obligation to support the project.

This section of the Financial Rules sets out the financial implications of working in partnership with external organisations.

L1.2 Cabinet

The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

The Cabinet can delegate functions, including those relating to partnerships, to Officers. These are set out in the Scheme of Delegation that forms part of the council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to full Council.

The Chief Executive or delegated Officer shall represent the council on partnership and external bodies, in accordance with the Scheme of Delegation.

L1.3 Section 151 Officer

The Section 151 Officer is responsible for:-

- Ensuring that the accounting arrangements to be adopted relating to partnerships and joint arrangements are satisfactory.
- Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the council.
- Considering the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- Ensuring that the risks have been fully appraised before agreements are entered into with external bodies. He or she should advise on effective controls to ensure that resources are used efficiently and effectively.

- Ensuring that all funding notified by external bodies is received and properly recorded in the council's accounts.

L1.4 Directors and Heads of Service

Directors and Heads of Service are responsible for:-

- Ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- Carrying out risk management appraisals, prior to entering into an arrangement with an external body, in accordance with procedures specified by the Section 151 Officer.
- Ensuring that partnership agreements do not impact adversely on the services provided by the council.
- Ensuring that partnership agreements and arrangements are properly documented and information provided to the Section 151 Officer to enable a note to be entered into the council's Statement of Accounts concerning material items.
- Maintaining a register of all contracts entered into with external bodies, in accordance with procedures specified by the Section 151 Officer.

L2 External Funding

L2.1 Introduction

External funding can be an important source of income to the council, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the council.

The council shall seek to maximise its resources by attracting external funding where appropriate. However, in some instances, available funding may be linked to tight specifications and may not be sufficiently flexible to link to the council's strategies.

L2.2 Section 151 Officer

The Section 151 Officer is responsible for:-

- Ensuring that any match funding requirements are considered prior to entering into an external agreement and that adequate future revenue budgets are in place to meet these requirements.
- Ensuring that all funding notified by external bodies is received and properly recorded in the council's accounts.
- Ensuring that all audit requirements are met.

L2.3 Directors and Heads of Service

Directors and Heads of Service are responsible for ensuring that:-

- Funds are acquired only to meet the priorities approved in the policy framework by the council.
- Any match funding requirements are considered prior to entering into an external agreement and consulting with the Section 151 Officer to ensure that adequate future revenue budgets are in place to meet these requirements.
- Key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Accountable body are clearly understood.
- All claims for funds are made by the due date and income received in accordance with the agreement.
- The project progresses in accordance with the agreed project outline and that all expenditure is properly incurred and recorded in the council's accounts.

L3 Work for Third Parties

L3.1 Introduction

Current legislation enables the council to provide a range of services to other bodies. Such work may enable a Service area to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is within current legislation.

Contracts for the work should be drawn up using guidance provided by the Monitoring Officer and the Section 151 Officer to the council. The proposals should be costed properly in accordance with guidance provided by the Section 151 Officer.

Guidance with regard to the financial aspects of third party contracts and the maintenance of the contracts register should be followed.

L3.2 Cabinet

The Cabinet is responsible for approving contractual arrangements for any work carried out by the council for third parties or external bodies in addition to the normal business. This responsibility can be delegated to the Senior Leadership Team (Directors) of the council.

L3.3 Section 151 Officer

The Section 151 Officer is responsible for issuing guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

L3.4 Directors and Heads of Service

Directors and Heads of Service are responsible for ensuring that:-

- Approval is obtained before any negotiations for the work are concluded.
- Contracts operate to the benefit of the council and do not impact adversely upon the services provided for the council.
- No contract is subsidised by the council.



- The Service area has the appropriate expertise to deliver the contract.
- Appropriate insurance arrangements are put in place.
- Wherever possible, payment is received in advance of the delivery of the service to the third party.
- The council is not put at risk from any bad debts.
- All contracts are properly documented and appropriate information given to the Section 151 Officer to enable a note to be entered into the Statement of Accounts.

This page is intentionally left blank

PART 4: Rules of Procedure

Part 4I – Contract Rules

Contents

PART 4: Rules of Procedure	1
Part 4I – Contract Rules.....	1
Section 1 – General compliance and scope	2
1. Compliance.....	2
2. Scope	3
Section 2- Common Requirements	3
3. Calculation of contract values	3
4. Threshold values	4
5. Spend category definitions.....	5
6. Authorised officers and their responsibilities	5
7. Contract values.....	7
8. Waivers.....	9
Section 3 - Procurement process: pre-procurement advertising, evaluation and awarding	11
9. Procurement process	11
10. Pre-procurement considerations	11
11. Selection criteria	12
12. Award criteria.....	12
13. Advertising and transparency notices.....	13
14. Submission and opening of tenders and quotes.....	13
15. Evaluation.....	14
16. Awarding Contracts.....	14
17. Assessment Summaries	15
Section 4 - Contract formalities	15
18. Execution of contracts.....	15
19. Records of quotes, tenders, contracts and spend.....	16
20. Bonds and parent company guarantees	16
21. Embedded leases and embedded derivatives	17
Section 5 - Specific types of tendering.....	17
22. Framework agreements, open framework agreements and dynamic markets.....	17

23. Framework agreements, open framework agreements and dynamic markets set up by the authority.....	18
24. Collaborations and joint procurement	18
25. Procurement by consultants	18
26. Contract management	18
27. Grounds for extending and modification of a contract.....	19
Definitions	19

Section 1 – General compliance and scope

1. Compliance

- 1.1 Each contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority’s functions and shall comply with:
 - 1.1.1 All relevant legislation, statutory guidance and codes;
 - 1.1.2 The relevant UK procurement rules and the National Procurement Policy Statement;
 - 1.1.3 The Authority’s Constitution including these Contract Rules, the Authorities Financial Rules and Scheme of Delegation;
 - 1.1.4 The Authority’s strategic objectives, Council Plan, Procurement Strategy and relevant policies
- 1.2 The Policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, supplies and services:
 - 1.2.1 Are obtained with probity, and propriety to the ensure the proper expenditure of public funds;
 - 1.2.2 Are appropriate for the purpose of for which they are obtained;
 - 1.2.3 Deliver Value for Money;
 - 1.2.4 Maximise public benefit while acting with integrity, fairness and equal treatment;
 - 1.2.5 Sharing information for the purposes of allowing Suppliers and others to understand the Authority’s procurement policies and decisions;
 - 1.2.6 Remove or reduce barriers for SMEs where possible

2. Scope

- 2.1 These Contract Rules apply to any arrangement made by, or on behalf of the Authority for the carrying out of works, the provision of services or the supply of supplies.
- 2.2 These Contract Rules do not apply to:
- 2.2.1 contracts of employment which make an individual a direct employee of the of the Authority;
 - 2.2.2 the acquisition, disposal or transfer of land (which must be carried out by the Executive Director or Finance and Assets or any other officer with delegated authority) except where services or works are required by the Authority as part of the land transaction e.g. development agreements;
 - 2.2.3 contract relating to the placement of deposits or raising of loans under the treasury management strategy;
 - 2.2.4 purchases made at public auction;
 - 2.2.5 the giving of grants.
- 2.3 Any procurements commenced, and all Contracts entered into before 24th February 2025 are subject to the Public Contract Regulations 2015 (PCR 2015). Any contracts or call-offs awarded following those procurements, even if commenced on or after 28th February 2025 will be subject to the 2015 Regulations throughout their term.

Section 2- Common Requirements

3. Calculation of contract values

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount of payable in pounds sterling inclusive of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The Estimated Total Contract Value of a framework agreement or dynamic market shall be the total value of all of the call-off contracts that may be awarded under that framework agreement or dynamic market.
- 3.3 The estimated value is to be calculated as at the date the contract is first advertised or suppliers are contacted, whichever occurs first.

- 3.4 If the Authority is unable to estimate the value of a contract in accordance (for example because the duration of the contract is unknown), the Authority must treat the estimated value of the contract as an amount of more than the threshold amount for the type of contract being procured.
- 3.5 Contracts must not be artificially under or overestimated or divided into two separate contracts where the result is to avoid the application of these Contract Rules or the Legislation.
- 3.6 The estimated value of a concession contract is the maximum amount the supplier could expect to receive under or in connection with the contract including, where applicable, amounts already received.

The amount a supplier could expect to receive includes the following:

- 3.6.1 amounts representing revenue (whether monetary or non-monetary) receivable pursuant to the exploitation of the works or services to which the contract relates (whether from the Authority or otherwise);
- 3.6.2 the value of any goods, services or works provided by the Authority under the contract other than for payment;
- 3.6.3 amounts that would be receivable if an option in the contract to supply additional services or works were exercised;
- 3.6.4 amounts that would be receivable if an option in the contract to extend or renew the term of the contract were exercised;
- 3.6.5 amounts representing premiums, fees, commissions or interest that could be receivable under the contract;
- 3.6.6. amounts received on the sale of assets held by the supplier under the contract.

4. Threshold values

- 4.1 The UK Government biennially sets Threshold Values for the purposes of applying the Legislation. There are different Threshold Values for services and supplies, light touch services, works and concessions (services and works) Contracts. The Authority's internal guidance will outline what these thresholds are and provide links to the relevant government guidance.
- 4.2 The Authority will take the Threshold into account when determining how to conduct a Procurement.

5. Spend category definitions

- 5.1 Services – the provision of any type of service other than those which fall within the definition of a works Contract or other specific services Contract.
- 5.2 Supplies – the purchase, lease, rental or hire purchase (with or without an option to buy) of goods or products, which may also include, incidental to the supply, the siting or installation of the product.
- 5.3 Works – the execution or design and execution of construction, civil engineering, demolition, building installation and building completion works.
- 5.4 Light Touch Services – the provision of certain health, education, social, religious, hospitality, legal, security, community and prison related services.
- 5.5 Concession contracts– the supply, for financial interest, of works or services where at least part of the consideration for that supply is a right for the Supplier to exploit the works or services and where the Supplier is exposed to real operating risk.
- 5.6 Relevant Health Care Services - any service that has a direct effect on the health of the service user accessing it. Covered by the Healthcare Services Provider Selection Regime Regulations 2023 (PSR)

6. Authorised officers and their responsibilities

- 6.1 In support of these Contract Rules, the Authority may issue internal guidance, procedures and standard documents. Procurement and contract management processes must be conducted in accordance with the relevant Legislation and any internal guidance. Authorised Officer key responsibilities include (but are not limited to):
 - 6.1.1 To act in accordance with these rules and not exceed the limits of their authority.
 - 6.1.2 To maintain ongoing knowledge and awareness of the rules and guidance to ensure compliance.
 - 6.1.3 To take all appropriate measures to effectively identify, remedy and prevent any conflicts of interest which may arise to avoid any distortion of competition and ensure equal treatment of Suppliers.
 - 6.1.4 To comply with the Authority's Code of Conduct for Employees
 - 6.1.5 All Officers, agents of the Authority or other stakeholders having access to information or documentation about the procurement will be bound by the confidentiality requirements set out. The Authority will consider any

requirements for the disclosure of information under the Regulations, Freedom of Information Act and any other requirement or permission that is applicable under the law.

- 6.1.6 To appraise the need for the expenditure and its priority
- 6.1.7 To consider which procurement procedure is most likely to achieve the commissioning and procurement objectives,
- 6.1.8 To assess and manage any risks associated with the procurement process and contract management.
- 6.1.9 To publish Transparency Notices where required by the Legislation
- 6.1.10 To develop high quality specifications and Key Performance Indicators (KPIs), including having regard to relevant Authority policies
- 6.1.11 To identify and consider whether any barriers to the participation of SMEs can be removed or reduced (e.g. Lotting)
- 6.1.12 To consider Social Value (Social Value Act 2012) within the procurement process to improve the economic, social and environmental well-being of the geographical area.
- 6.1.13 Where the procurement involves a potential change to services must ensure compliance with the Authority's duty to consult under Section 3 of the Local Government Act 1999 and,
- 6.1.14 the Authority's duties under the Equality Act 2010
- 6.1.15 To consult users as appropriate about the proposed procurement procedure, contract standards and performance and user satisfaction monitoring;
- 6.1.16 To produce and maintain adequate records and a clear audit trail
- 6.1.17 To manage supplier debarment, disputes, late tenders and missing materials
- 6.1.18 To develop appropriate and proportionate award criteria
- 6.1.19 To ensure the evaluation and moderation process is carried out in a fair, transparent, and consistent manner.
- 6.1.20 To manage award notifications and standstill periods.
- 6.1.21 To ensure effective management of contracts.
- 6.1.22 To ensuring sufficient budget to sustain the contract for the life of the contract.
- 6.1.23 To use appropriate terms and conditions for the contract and liaising with the Director of One Legal where required.
- 6.1.24 To raise a purchase order for the contract.

6.2 Any procurement that is:

- Over budget or
- Involves the transfer of staff either to or from the Authority

shall be referred to the Cabinet for decision, unless otherwise stated elsewhere in the Authority's Constitution.

7. Contract values

Below Threshold Procurements

7.1 The appropriate route to market as identified in Table 1, considering the value, risk and complexity of the Contract and market capacity.

Above Threshold Procurements

7.2 The Authority will use only those procedures permitted under The Legislation.

The procurement team will establish the appropriate route to market considering the value, risk and complexity of the contract and size of the market. This includes the use of Frameworks and Dynamic Markets which the Authority is eligible to access and where the Procurement can be undertaken in accordance with the specific call-off process.

The Procurement Act 2023 (PA23) / Public Contract Regulations 2015 (PCR 2015) (where PCR 2015 still applies to legacy contracts) compliant Procedures – include, but are not limited to:

- Open Procedure
- Competitive Flexible Procedure
- Frameworks and Open Frameworks
- Dynamic Markets (and any legacy Dynamic Purchasing Systems)
- Direct call offs and mini competitions run in line with the terms of PA23/ PCR2015 complaint framework agreements procured by the Authority or other contracting authorities.
- Compliant Direct Awards
- Horizontal and Vertical contracting arrangements (Schedule 2 of PA23).

7.3 Before carrying out a procurement process, Authorised Officers shall establish whether there is a suitable framework agreement, dynamic market or existing contract to which the Authority is a party that provides a mechanism for ordering goods, services and works and, if so, consider whether it's use is appropriate, legal and adheres to the principles of Best Value. Where there is no suitable framework agreement, dynamic market or existing contract the authorised officer must follow the relevant process identified below.

Table 1: Contract Values

Estimated Total Contract Value	Procurement Procedure
Less than £30,000 (figures inclusive of VAT)	<p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by obtaining two written Quotes where possible and via the e- procurement system where appropriate.</p> <p>When seeking quotations, Authorised Officers should, where possible, seek at least one quote from a local supplier, with a particular preference to SMEs.</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p> <p>If over £5,000 (exclusive of VAT) Budget Holder must register the completed contract with the procurement team in order to meet the Council's transparency obligations.</p> <p>A waiver will be required if best value cannot be demonstrated.</p>
=>£30,000 but less than £60,000 (figures inclusive of VAT)	<p>Minimum of three quotes through the Council's e-procurement system using the Request for Quote Template</p> <p>When seeking quotations, Authorised Officers should, where possible, seek at least one quote from a local supplier, with a particular preference to SMEs.</p> <p>Contracts drafted or approved by the Director of One Legal must be used</p> <p>Budget Holder must register the completed contract with the procurement team in order to meet the Council's transparency obligations.</p>

=> £60,000 but less than relevant Threshold (figures inclusive of VAT)	<p>Advertised competitive Invitation to Tender process through the Council's e-procurement system.</p> <p>A formal written contract prepared or approved by the Director of One Legal must be used.</p>
Above relevant Threshold (figures inclusive of VAT)	<p>Advertised competitive Invitation to Tender process through the Council's e-procurement system</p> <p>The Authority will use only those procedures permitted under The Legislation. The procurement team will establish the appropriate route to market considering the value, risk and complexity of the contract and size of the market.</p> <p>A formal written contract prepared or approved by the Director of One Legal must be used. Any framework terms and conditions must be agreed and approved.</p>
Disposal of assets (other than land)	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender, where suitable. Any disposal must be in accordance with the Authority's Finance Rules</p>
Disposal of Land	<p>These Contract Rules and the Regulations apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (e.g. development agreements)</p>

8. Waivers

8.1 Subject to the written approvals referred to in Contract Rule 8.3 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances: -

8.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade

- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative suppliers;

or

- 8.1.2 The supplies to be purchased are proprietary articles or are sold only at fixed prices; or
- 8.1.3 The price of services or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 8.1.4 Where the opinion of the Authorised Officer in consultation with the Section 151 Officer and the Director of One Legal considers that the services to be provided or the work to be executed or the supplies or materials to be purchased are urgent, subject to the action being reported to the next Cabinet Meeting; or
- 8.1.5 Specialist consultants, solicitor, barrister, agent, artist or professional advisers are required and
 - there is no satisfactory alternative; or
 - Evidence indicates that there is likely to be no genuine competition; or
 - It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;

Or

- 8.1.6 Where the Authority is purchasing property, or is taking a service back in house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; or
 - 8.1.7 The works to be executed or the supplies or materials to be purchased can only be carried out or supplied by a statutory body.
- 8.2 Exemptions to the application of these Contract Rules for above Threshold Contracts will only be considered where a Direct Award is permitted under The Legislation and the specific circumstances under which the Direct Award can be undertaken are met.
- 8.3 Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

- 8.3.1 Cabinet for contracts above £100,000 (**exclusive** of VAT) or the Head of Paid Service in consultation with the Leader of the Authority, the Section 151 Officer and the Director of One Legal if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or
- 8.3.2 The Budget Holder (if authority to do so has been delegated to them in accordance with the protocol for sub delegation contained in Appendix D of the Constitution) or a Director, Executive Director/Chief Executive, in consultation with the Section 151 Officer and the Director of One Legal if the contract does not exceed £100,000 (**exclusive** of VAT).
- 8.4 The decision to waive contract rules and the reasons for it shall be recorded on the waiver form and were made under Rule 8.3.2 or the urgency procedure under Rule 8.3.1, the waiver shall be kept by the Director of One Legal
- 8.5. For above Threshold contracts, the decision to Direct Award and the reasons for it shall be recorded on the Direct Award Justification Report and were made under Rule 8.3.1 and permitted by the Legislation. The Report shall be kept by the Director of One Legal.
- 8.6 Contract terms approved or drafted by the Director of One Legal must be used for contracts let using Waivers and Direct Awards.

Section 3 - Procurement process: pre-procurement advertising, evaluation and awarding

9. Procurement process

- 9.1 The Authority's Tender templates will be used for all above Threshold procurements to ensure compliance with Legislation and consistency for Suppliers, other than where use of a Framework Agreement or Dynamic Market requires use of specific Tender documents.
- 9.2 The Authority's below Threshold templates will be used for below threshold procurements where it is appropriate to do so, subject to the nature and complexity of the Contract, to provide consistency for Suppliers.
- 9.3 The Tender/ Quotation documents must specify the requirement, award criteria, evaluation process, the clarification process and timescales for submission.

10. Pre-procurement considerations

- 10.1 Pre procurement considerations should follow internal guidance and templates.
- 10.2 For Above Threshold procurements:

10.2.1 Preliminary market engagement must be considered to help develop the requirements and process, with details published in the relevant transparency notices.

10.2.2 The Authority has a duty to consider Lots and whether the goods, services or works to be supplied could reasonably be provided under more than one contract.

10.2.3 If the Authority determines that lots are not appropriate then you must provide reasons for not doing so in the tender notice.

10.2.4 Conflict of interest assessments must be undertaken for each procurement and regularly reviewed throughout the procurement and contract management process with details published in the relevant transparency notices.

11. Selection criteria

Conditions of participation and Grounds for Exclusion

11.1 Conditions of participation are not mandatory for Above Threshold procurements however, where used, the Authority can confirm certain aspects of a Supplier's suitability or ability to deliver the contract. Conditions of Participation can include a Supplier's legal and financial capacity, and technical ability to perform a contract and should be used where appropriate.

11.2 The assessment 'gateway' for mandatory and discretionary exclusions (indicating excluded and excludable suppliers) must be adhered to including the use of the debarment list.

11.3 Regulated below threshold procurement cannot restrict the submission of tenders by reference to suppliers' selection criteria but the Authority may ask for this information and assess at award stage if it wishes.

12. Award criteria

12.1 The evaluation criteria will be proportionate and applicable to the nature, value, level of risk and complexity of the Contract and cover both selection criteria (where applicable) and award criteria.

12.2 Award Criteria must be directly linked to the subject matter of the Contract and consider an assessment of quality, price and social value.

12.3 The Authority can take a broad view of what can be included in the evaluation methodology of tenders or quotes in assessing value for money. Internal policies such as carbon reduction, social value and supply chain security should be considered when agreeing award criteria, where relevant to the opportunity being tendered.

This means contracts do not have to be awarded on the basis of the lowest price or that price must always be weighted higher than quality. Contracts, as appropriate, and in accordance with Legislation and internal guidance may be made on the basis of:

- price;
- quality, or
- best price-quality ratio

The most advantageous tender could be the lowest price if for example off the shelf goods are being procured.

13. Advertising and transparency notices

13.1 Procurement must be carried out electronically through the e- procurement system where the Contract is above Threshold, including where competition is restricted (e.g. Framework further competitions and Dynamic Market call-offs).

13.2 Procurement must be carried out electronically through the e- procurement system where the Contract is below Threshold where the contract value is £30,000 (**inclusive** of VAT) or above unless otherwise permitted by these Contract Rules or by the Procurement Team and the Section 151 Officer.

13.3 All relevant PA23 transparency notices must be published as required during the process on the Central Digital Platform.

14. Submission and opening of tenders and quotes

14.1 The manner and deadline for submissions will be set out in the Invitation to Tender or Request for Quote documents.

14.2 The Authority will only accept Tenders submitted in accordance with the Tender/ Quote requirements.

14.3 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Team the section 151 Officer and the Director of One Legal, is satisfied that there is sufficient evidence that technical difficulties with the e- procurement system prevented the Tender or Quote from being submitted before the closing time.

- 14.4 Where there are errors or discrepancies within a Supplier's Tender response the Authority will give the Supplier the opportunity to rectify the errors or discrepancies only if it is determined the Supplier will not gain an unfair advantage.
- 14.5 The Authority must follow key requirements when assessing public contracts following a competitive tendering procedure:
- 14.5.1 If a supplier does not satisfy the conditions of participation, the Authority must disregard the tender
 - 14.5.2 If a supplier is not a United Kingdom supplier or a treaty state supplier, or intends to subcontract the performance of all or part of the contract to a supplier that is not a United Kingdom supplier or treaty state supplier, the Authority may disregard their tender
 - 14.5.3 If a supplier submits a tender which breaches a procedural requirement set out in the tender notice or associated tender documents, then the Authority may disregard their tender
 - 14.5.4 If a supplier submits what the Authority considers to be an abnormal low-priced tender the Authority may disregard their tender. Before disregarding, an authority must notify the supplier and give it opportunity to demonstrate that it will be able to perform the contract for the price offered.
 - 14.5.5 must disregard any tender from a supplier that is an excluded supplier
 - 14.5.6 must consider whether a supplier is an excludable supplier and may disregard any tender from an excludable supplier.

15. Evaluation

- 15.1 Tenders and Quotes shall be evaluated against the criteria set out in the Invitation to Tender or Request for Quote and in accordance with The Legislation (where applicable)
- 15.2 The criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation
- 15.3 Evaluations will be conducted by an appropriately skilled and experienced panel.

16. Awarding Contracts

- 16.1 All contracts shall be awarded based on the offer that represents most advantageous tender (MAT). The most advantageous Tender or Quote is the one that the Authority considers

- Satisfies its requirements; and
- Best satisfies the award criteria when assessed by reference to the evaluation methodology

16.2 When awarding any contract for goods, services or works whose aggregate value exceeds the relevant threshold prescribed under The Legislation, an Authorised Officer shall adhere to a minimum eight (8) working days Standstill Period before entering into such contract and follow the transparency notices required.

16.3 A contract may only be awarded by an Authorised Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure the Budget Holder responsible for the contract has sufficient funds in place to sustain the life of the contract i.e. full life cycle costing.

17. Assessment Summaries

17.1 The Authorised Officer shall provide an Assessment Summary to each supplier that submitted an assessed tender as required by the Legislation for all Above Threshold procurements.

17.2 Assessment Summaries are not mandatory for below threshold procurements or call-off from frameworks (unless the framework terms set out a specific requirement to do so). Although to ensure compliancy with the duty to have regard to the procurement objective of sharing information, it is deemed best practice to provide an assessment summary for all procurements.

Section 4 - Contract formalities

18. Execution of contracts

18.1 All contracts must be formally concluded in writing before the supply, service or work begins.

18.2 All contracts not below £60,000 (**inclusive** of VAT) that require execution shall be signed by the Chief Executive, Director of One Legal or any other officer with delegated authority to do so, unless the Director of One Legal requires the contract to be sealed

18.3 All contracts with a value of £60,000 (**inclusive** of VAT) or above shall be sealed, unless the Director of One Legal considers that it may be signed

18.4 Electronic signatures may only be permitted as a method of executing contracts with the prior consent of the Section 151 officer or the monitoring officer (having first obtained advice from the Director of One Legal), or the Director of One Legal

19. Records of quotes, tenders, contracts and spend

- 19.1 The Procurement Team shall maintain a list of all Tenders and Quotes received over £30,000 (**inclusive** of VAT, typically £25,000 ex VAT). For procurements not exceeding £30,000 (incl of VAT) the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Team.
- 19.2 Authorised Officers must ensure that details of contracts awarded over £5,000 (**exclusive** of VAT) are entered on the Contracts Register kept by the Authority and maintained by the Procurement Team.
- 19.3 All contracts with a value of £30,000 (**inclusive** of VAT) and above shall be kept by the Director of One Legal and a copy shall be sent to the Procurement Team.
- 19.4 All contracts below £30,000 (**inclusive** of VAT) shall be kept securely by the Budget Holder in accordance with Authority's retention policy and a copy to the Procurement Team.
- 19.5 Each quarter the Authorised Officer will publish details of payments over £30,000 made under a public contract i.e. contract payment notice as required by Legislation.
- 19.6 Twice annually the Authorised Officer will publish details of performance against 30-day payment terms as required by Legislation.

20. Bonds and parent company guarantees

- 20.1 A Bond or Parent Company Guarantee will be required on all works contracts above £1,000,000 (**exclusive** of VAT) unless considered appropriate by the Section 151 Officer following consultation with the Director of One Legal
- 20.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by the Section 151 following consultation with the Director of One Legal.
- 20.3 Bonds shall be a minimum of 10% of the contract value

21. Embedded leases and embedded derivatives

21.1 Prior to the award of a contract the Authorised Officer must notify the Section 151 officer where under the contract

21.1.1 the Authority will have use or control of or will be paying for the use of specific asset or group of assets; or

21.1.2 contains a clause that caps the price the Authority has to pay for supplies or services or there is a floor price on the price the Authority has to pay for supplies or services; or

21.1.3 the prices the Authority must pay under the contract, increase the by more than two times RPI; or

21.1.4 the prices the Authority must pay, increase by some other form of indices or commodity price.

Section 5 - Specific types of tendering

22. Framework agreements, open framework agreements and dynamic markets

22.1 External Framework Agreements, and Dynamic Markets, where the Authority is named as a permitted Contracting Authority, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a full procurement exercise.

22.2 The Framework or and Dynamic Market may include within its terms a requirement for abbreviated competitive exercise ("mini competition") between some or all of Suppliers who are parties to the Framework Agreement and can provide the supplies/services/works being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini competition. Any purchase from a Framework Agreement or Dynamic Market shall be made in accordance with procedure set out the Framework Agreement or Dynamic Market.

22.3 The approval of the Procurement Team or Director of One Legal shall be sought before signing up to new a Framework or Dynamic Market.

22.4 A Call-Off contract as set out in the Framework Agreement or Dynamic Market will need to be entered. If no pre agreed contract is provided for in the Framework Agreement or Dynamic Market, a contract drafted or approved by the Director of One Legal, shall be entered.

23. Framework agreements, open framework agreements and dynamic markets set up by the authority

- 23.1 The Authority may carry out a procurement exercise to set up a Framework, Open Framework or a Dynamic Market to allow it to choose Suppliers who meet its pre-qualification requirements. The Authority can then call off suppliers from the framework agreements or the Dynamic Market.

24. Collaborations and joint procurement

- 24.1 The Authority may participate in any collaborative or joint procurement with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director and Procurement Team.

25. Procurement by consultants

- 25.1 Any consultants contracted by the Authority shall be appointed in accordance with these Contract Rules and The Legislation. The Authorised Officer shall ensure that the consultants' performance is monitored and IR35 legislation is adhered to.
- 25.2 Where the Authority uses Consultants to act on its behalf in relation to any procurement opportunity, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules and The Legislation.
- 25.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.
- 25.4 No consultant shall make the decision on whether to award a contract or to whom a contract should be awarded. The decision rests with the Awarding Officer who shall sign the Tender Acceptance Form or waiver.

26. Contract management

- 26.1 The contract manager will conduct regular reviews of the Supplier's performance against the requirements and key performance indicators specified in the Contract and monitor compliance against contractual obligations for the life of the Contract.
- 26.2 Contract management processes must be conducted in accordance with the relevant Legislation and any internal guidance.
- 26.3 Legislative key requirements for managing public contracts must be followed and include provision and transparency notices for payment, performance,

KPI's (publication and reporting for contracts with a value of more than £5million **inclusive** of VAT), modification and termination of contract.

27. Grounds for extending and modification of a contract

27.1 Contract extensions and modifications may only be considered if the relevant contract contains an extension/ modification option or if there are legitimate grounds as provided by The Legislation. Any such extension/ modification must follow internal procurement guidance and be authorised in accordance with the guidance and the Authority's Scheme of Delegation.

Definitions

Term	Meaning
Above Threshold	Means a procurement with a value equal to or more than the prescribed Threshold
Advertised	Means advertised on the Central Digital Platform
Assessment Summary	Information about the Authority's assessment of the tender provided to each supplier that submitted an 'assessed tender'
Awarding Officer	The officer with the delegated authority to award the contract
'The' Authority	Cheltenham Borough Council
Authorised Officer	Authorised Officers are persons responsible for carrying out the procurement.
Best Value for Money	best solution for the Authority taking into account price, quality and deliverability.
Below Threshold	Means a procurement with a value below the prescribed Threshold
Bond	An insurance policy: if the Supplier does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Supplier's failure.
Candidate	Any person who may or does submit a Quote or Tender.
Call-Off Contract	Means a contract awarded to a Supplier under a Framework Agreement
Central Digital Platform	The online system referenced in the Procurement Act 2023 and defined in the Procurement Regulations 2024 as the central digital platform. It is available at www.gov.uk/find-tender . The central digital platform will enable: <ul style="list-style-type: none"> contracting authorities to publish notices and other

Term	Meaning
	<p>information as required under the Act for above and below threshold procurements</p> <ul style="list-style-type: none"> • suppliers to submit and store certain core organisational information as required by the regulations to participate in above threshold procurements. • anyone to view the notices and access related public procurement data
Concession Contracts	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.
Conditions of Participation	A set of conditions which a supplier must satisfy in order to be awarded a public contract following a competitive tendering procedure
Consultant	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
Contracting Authorities	Bodies that are subject to the Regulations.
Director	Means the chief officers or a Director for the Authority
Contract Management	The process and approach taken to implement, monitor and review what is being provided under the contract to ensure what has been agreed is being provided to the required standards and all parties to the contract are meeting their obligations
Debarment	The debarment regime enables Ministers to put suppliers on a published debarment list. Inclusion on the list means that the supplier's past behaviour or circumstances mean that it is not, or may not be, allowed to participate in covered procurements or be awarded public contracts.
Dynamic Market	is a list of qualified suppliers (i.e. suppliers who have met the 'conditions for membership' of the dynamic market) who are eligible to participate in future procurements
e- procurement system	Means the portal used by the Authority to conduct procurements electronically.
Exclusion	a broad term to describe a number of different circumstances where suppliers are not permitted to participate in a covered procurement, to have their tender considered or to be awarded a public contract.
Executive Director	Means an Executive Director for the Authority
Framework	A contract between a Contracting Authority and one or more suppliers that provides for the future award of contracts by a Contracting Authority to the supplier or suppliers
Open Framework	a scheme of frameworks that provides for the award of successive frameworks on substantially the same terms

Term	Meaning
Head of Paid Service	Means the officer designated as head of paid service for the Authority under section 4 of the Local Government and Housing Act 1989
Horizontal and Vertical contracting arrangements	Contracts between public bodies to co-operate to achieve a common objective with the exercise of public functions in the public interest (horizontal) and contracts between one or more contracting authorities contract with a 'controlled persons' (e.g. a wholly owned company) that carries out more than 80% of its activities for those public bodies (vertical)
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these Contract Rules.
'The' Legislation	The Procurement Act 2023 (PA23) The Regulations means the Procurement Regulations 2024 (PR24) and all regulations made under PA23.
Lots	a way to split a larger single procurement into smaller 'chunks' which are then procured under separate contracts with different suppliers (some suppliers may be successful in more than one lot and may be awarded more than one contract).
Most Advantageous Tender (MAT)	the tender that both satisfies the contracting authority's requirements and is the best tender when assessed against the award criteria and the assessment methodology
Parent Company Guarantee	A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
Preliminary market engagement	takes place before the publication of a tender or transparency notice and helps contracting authorities and the market prepare for the procurement.
Procurement Team	Officers engaged by or on behalf of the Authority to provide procurement services.
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulated Below Threshold	is a below-threshold contract that is not an exempted contract, a concession contract, or a utilities contract
Section 151 Officer The officer of the Authority who has been designated as such pursuant to Section 151 of the Local Government Act 1972.	Section 151 Officer The officer of the Authority who has been designated as such pursuant to Section 151 of the Local Government Act 1972.
SME	Small and Medium Enterprise.

Term	Meaning
Standstill period	The standstill period is the period between the contracting authority announcing its intention to enter into a contract (by publishing the contract award notice) and actually entering into that contract; the contracting authority cannot enter into the contract during the standstill period which is to be no less than 8 working days
Supplier	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
Tender	A suppliers proposal submitted in response to an Invitation to Tender.
Transparency Notices	Notices that are published throughout the procurement lifecycle, providing up to date information on procurement and contracts giving transparency and visibility of data.
Treaty State Supplier	a supplier that is entitled to the benefits of an international agreement specified in Schedule 9 of the Act.
Threshold / Threshold Value	The contract value thresholds (inclusive of VAT) set by the UK government above which the Regulations apply, as amended every two years

Cheltenham Borough Council

CODE OF MEMBERS' CONDUCT

Adopted on 12 December 2022

taking effect on 1 January 2023

Contents

- I Introduction
- II Scope of the Code of Conduct
- III General Principles of Members' Conduct
- IV Rules of Conduct
- V Registration of Interests
- VI Declaration of Interests and Restrictions on Participation
- VII Duties in respect of the Code of Conduct
- VIII Dispensations
- IX Gifts and Hospitality
- X Definitions

Appendix A – Disclosable Pecuniary Interests

Appendix B – Other Registrable Interests

I. Introduction

1. This Code of Conduct (Code) is adopted pursuant to the Authority's duty to promote and maintain high standards of conduct by Members of the Authority.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

II. Scope of the Code of Conduct

2. The Code applies to Members whenever acting in their official capacity as a Member of Cheltenham Borough Council, including;
 - (a) when engaged in the business of Cheltenham Borough Council including Ward business or representing the Authority externally;
 - (b) when behaving so as to give a reasonable person the impression of acting as a representative of Cheltenham Borough Council.

This Code of Conduct does not seek to regulate what Members do in their purely private and personal lives.

3. The obligations set out in this Code are in addition to those which apply to all Members by virtue of the procedural and other rules of the Authority and any Protocols and Policies which may be adopted from time to time by the Authority.
4. Failure to comply with the requirements within this Code of Conduct which relate to disclosable pecuniary interests and which are set out in sections V and VI and Appendix A is a criminal offence.¹

¹ Section 34 Localism Act 2011

III. General Principles of Members' Conduct

5. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a Councillor, Members will be expected to observe the general principles of conduct set out below. These principles will be taken into consideration when any allegation is received of a breach of the provisions of the Code.

- *Selflessness*
- *Integrity*
- *Objectivity*
- *Accountability*
- *Openness*
- *Honesty*
- *Leadership*

IV. Rules of Conduct

6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

7. Members shall observe the following rules:-

General Requirements

- (1) **Do** treat everyone with respect.
- (2) **Do not** bully any person.
- (3) **Do not** harass any person
- (4) **Do** promote equalities and **do not** discriminate unlawfully against any person.

- (5) **Do not** use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, or seek to improperly influence a decision about any matter from which you are excluded from participating or voting as a result of the requirements of Part VI of this Code.
- (6) **Do not** do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, your Authority.
- (7) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless–
- (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.
- Before making any disclosure under (iv) above, the written advice of the Monitoring Officer must be sought and considered.
- (8) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (9) **Do** promote and support high standards of conduct when serving in your public post by leadership and example.
- (10) **Do not** behave in a manner which brings your role or the Authority into disrepute.
- (11) **Do not** use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When using the resources of the Authority, or authorising the use of those resources by others:

- (12) **Do** act in accordance with the Authority's requirements including the requirements of the Authority's ICT Policy.
- (13) **Do** ensure that such resources are not used for political purposes (including party political purposes) unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or to the office to which you have been elected or appointed.
- (14) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

When making decisions on behalf of, or as part of, the Authority:

- (15) **Do** ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.
- (16) **Do** have regard to advice provided to you by the Authority's Officers, particularly that provided by the Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
- (17) **Do** be as open as possible about your own decisions and actions and those of your authority and be prepared to give reasons for those decisions and actions.
- (18) **Do** ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

V. Registration of Interests

8. Members shall observe the following rules when registering their interests.

- (1) **Do**, within 28 days of taking office as a Member (or Co-opted Member), notify the Monitoring Officer of any disclosable pecuniary interest as defined in Appendix A and any other registrable interest as defined in Appendix B.
- (2) **Do**, within 28 days of the date of a disclosure referred to in Paragraph 9(2) of this Code, notify the Monitoring Officer of the interest.
- (3) **Do** notify the Monitoring Officer of any new interest (disclosable pecuniary or other registrable interest) or change to any registered interest within 28 days of the date of that change.
- (4) **Do** approach the Monitoring Officer if you feel that your interest should be treated as sensitive because its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation.

VI. Declaration of Interests and Restrictions on Participation

Members must observe the following rules:-

9. Disclosable Pecuniary Interests

Where a matter, in which you have an interest as specified in Appendix A (disclosable pecuniary interests), arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.
- (2) **Do** ensure that, if your interest is not entered in the Authority's Register, you disclose the interest to the meeting as required in 9(1) above and that you notify the Monitoring Officer of the interest within 28 days in accordance with Paragraph 8(2) of this Code.
- (3) **Do** withdraw from the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting unless a dispensation has been granted.
- (4) **Do not**, as a member of the Authority's executive, exercise any executive functions in respect of any matter in which you have a disclosable pecuniary interest (Appendix A). You should notify the Monitoring Officer of the interest and take no steps or further steps in the matter.

10. Other Interests (Other Registrable Interests Appendix B and Non - registrable Interests)

Where a matter, in which

either you have an interest as specified in Appendix B (other registrable interests),

or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** ensure that you disclose the interest to the meeting. If the Monitoring Officer considers it a sensitive interest, you must declare that you have an interest but do not need to disclose the nature of the interest.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if,
 - (a) it affects the financial position of an interest specified in Appendix B (other registrable interests)
 - (b) it affects your financial position or well-being or that of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associateor
 - (c) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described in (a) and (b) above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in Paragraph 10(2) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

- (3) **Do not**, as a member of the Authority's executive, exercise any executive functions in respect of any matter in which you have an interest as described in 10(2) above. You should notify the Monitoring Officer of the interest and take no steps or further steps in the matter.

VII. Duties in respect of the Code of Conduct

11. Members shall observe the following:-

- (1) **Do** undertake training on the Code of Conduct as required by the Authority.
- (2) **Do** co-operate, at all stages, with any investigation into your conduct which may be carried out in accordance with the arrangements for the investigation and determination of complaints which have been put in place by the Authority
- (3) **Do not** seek to intimidate, or attempt to intimidate, any person who is, or is likely to be, a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a Member has failed to comply with his or her Authority's Code of Conduct.

- (4) **Do** comply with any sanction imposed on you following a finding that you have failed to comply with the Code of Conduct.

VIII. Dispensations

12. Where a Member has a disclosable pecuniary interest as described in this Code, and set out in Appendix A, or has an interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code, the Member may apply to the Monitoring Officer for a dispensation.
13. A Member may be granted a dispensation to participate in a discussion and vote on a matter at a meeting even if the Member has a disclosable pecuniary interest as described in this Code, and set out in Appendix A, or has an other registrable interest (Appendix B) or non-registrable interest which would preclude the Member's participation in the item of business as described in Paragraph 10 of this Code.

IX. Gifts and Hospitality

14. When offered gifts or hospitality in your capacity as a Member of the Authority, the following rules must be observed.
 - (1) **Do not** accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or to a reasonable suspicion of influence to show favour, from persons seeking to acquire, develop or do business with the Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage.
 - (2) **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt. (Appendix B).

- (3) **Do** register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.

X. Definitions

The following are definitions which apply for the purposes of this Code of Conduct.

1. Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient.
2. "Close associate" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It may be a friend, a colleague, a business associate or someone you know through general social contacts. It is someone a reasonable member of the public would think you might be prepared to favour/disadvantage ("close association" shall be construed accordingly).
3. Harassment is conduct, on at least two occasions, that causes alarm or distress or puts people in fear of violence
4. "Meeting" is a meeting of the Authority, or any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of the Authority
5. "Member" is an elected Member or a Co-opted Member of the Authority.
7. "Co-opted Member" is a person who is not a Member of the Authority but who is either a Member of any Committee or Sub-Committee of the Authority, or a Member of, and represents the Authority on, any Joint Committee or Joint Sub-Committee of the Authority, and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee.

6. "Member of your family" means:
- Partner (spouse/civil partner/someone you live with as if a spouse or civil partner);
 - A parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner; and the partners of any of these persons;
 - A brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece; and the partners of any of these persons.
7. "Monitoring Officer" is the Monitoring Officer to the Authority.
8. "Pending notification" is an interest which has been notified to the Monitoring Officer but which has not been entered in the Authority's Register in consequence of that notification.
9. Respect means politeness and courtesy in behaviour, speech, and in the written word.
10. "The Act" is the Localism Act 2011.
11. "The Authority" is Cheltenham Borough Council.
12. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
13. "Well-being" means general sense of contentment and quality of life.
14. Excepted functions are functions of the Authority in respect of

- (i) housing, where the Member is a tenant of your authority provided that those functions do not relate particularly to the Member's tenancy or lease;
- (ii) an allowance, payment or indemnity given to Members;
- (iii) any ceremonial honour given to Members; and
- (iv) setting Council tax or a precept under the Local Government Finance Act 1992.

Disclosable Pecuniary Interests

The interests set out below are "Disclosable Pecuniary Interests" in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of this Code of Conduct of any interest which is an interest of **the Member (M) or of any of the following**:

- the Member's spouse or civil partner;
- a person with whom the Member is living as husband and wife; or
- a person with whom the Member is living as if they were civil partners;

and the Member is aware that that other person has the interest.

Subject	Disclosable Pecuniary Interest
Employment, Office, Trade, Profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- (a) "the Act" means the Localism Act 2011;
- (b) "body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (c) "director" includes a member of the committee of management of an industrial and provident society;
- (d) "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (e) "M" means a member of a relevant authority;
- (f) "member" includes a co-opted member;
- (g) "relevant authority" means the authority of which M is a member;

- (h) "relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
- (i) "relevant person" means M or any other person referred to in section 30(3)(b) of the Act;
- (j) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

Other Registrable Interests

The interests set out below are "other registrable interests" which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(4) of this Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:-

Subject	Other Interest
Management or Control	Any body of which the Member is in a position of general control or management (including where you have been appointed or nominated by the Authority.)
Public/Charitable and Other External Bodies	Any body – (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union). of which the Member of the Authority is a member or in a position of general control or management.
Employer	Any person or body who employs, or has appointed, the Member.
Gifts and Hospitality	The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more.



Code of Conduct

For all Employees at

Cheltenham Borough Council

This page is intentionally left blank

Why is the Code of Conduct for employees important?

Cheltenham Borough Council expects every employee to behave in a highly professional manner. That's why it's important to read and understand the Code of Conduct, so you understand how you are expected to behave at work.

All employees are also expected to adhere to our five council values these can be found [here](#).

To assist in understanding the Code a question and answer section is included at the end of the document. However, if there are parts of the Code that you do not understand, ask your line manager to explain them to you. They may refer you to other policies and procedures or refer your query to their Director or a Human Resources Advisor.

RECORDING THAT YOU HAVE READ AND UNDERSTOOD THE EMPLOYEE CODE OF CONDUCT

- Once you have read the Code of Conduct please complete the following form: [Register of Interest and Declaration](#)
- This will then be recorded by the Human Resources team so we can make sure everyone has signed to say they have read and understood the Code of Conduct.

Data Protection

Please refer to the privacy notice at the end of this document.

Thank you.

This page is intentionally left blank

Cheltenham Borough Council – Employees only

Declaration of financial and other interests (including Section 117 of the Local Government Act 1972) and in accordance with the Employee Code of Conduct

All employees are required to complete a Declaration of Interest form each year to ensure the council is aware of any financial or other interests you or your family or friends have, which could conflict the interests of the council.

You must answer all questions openly and honestly and make a declaration at the end. If you are unsure about any of the questions, please seek additional guidance from your line manager of the council's Monitoring officer.

You can access the form by clicking on the following link:

<https://forms.office.com/e/EzQALUJfQR>.

Code of Conduct for all Cheltenham Borough Council Employees

1 What is the Code of Conduct?

At Cheltenham Borough Council we conduct our business ethically, honestly and in full compliance with all laws and regulations. This Code of Conduct is designed to provide guidance about what is expected from you in your daily work and in your dealings with elected members, colleagues and the public.

All Council employees must read, understand and operate within the terms of this Code of Conduct.

This document forms part of your contract of employment and you are required to comply with its contents. Failure to do so may result in disciplinary action, which could include dismissal.

Cheltenham Borough Council's code of conduct:

- sets out minimum standards of behaviour for employees;
- provides guidelines to help maintain and improve standards;
- aims to protect the reputation of both employees/workers and the council.

Together with the Nolan principles from the Committee on Standards in Public Life it sets out the framework within which all employees must operate.

This code of conduct is not exhaustive and does not replace the general requirements of the law, common sense and good conduct. The code is intended to be used alongside other council policies, to guide you in your role.

2 Who does it apply to?

The Code applies to all employees and anyone acting as an employee of Cheltenham Borough Council.

To clarify - the use of the word 'employee' within this code includes permanent and temporary employees, casual workers and agency staff.

Although the Code does not directly apply to contractors, consultants or volunteers, the Council's continued association with these individuals and/or their organisations requires them to observe and comply with the Code.

(Please note: that the Employee Code of Conduct is not applicable to elected members/councillors. A separate Code of Conduct has been written and requires elected members/councillors to observe and comply with the details of the Code).

If you are unsure about any aspect of the Code, please raise it with your manager or supervisor at the earliest opportunity.

3 What is my responsibility?

These principles that underline this code, are based on The Seven Principles of Public Life (also known as the Nolan Principles) and they apply to anyone who works as a public officer:

- **Selflessness** – Employees should only serve the public interest and should never improperly confer and advantage or disadvantage on each other or any person.

- **Honesty and Integrity** – Employees should not place themselves in official situations where their honesty or integrity may be questioned. They should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity** – Employees should make decisions on merit including making appointments, awarding contracts or recommending individuals for rewards or benefits.
- **Accountability** – Employees should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **Openness** – Employees should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
- **Respect for others** – Employees should treat each other and the public with respect by promoting equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability.
- **Duty to uphold the law** – Employees should uphold the law and on all occasions act in accordance with the trust that the public has placed on them.
- **Stewardship** – Employees should do whatever they are able to do to ensure that their Authority uses its resources prudently and in accordance with the law.
- **Leadership** – Employees should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

You must ensure that you:

- read this policy;
- understand it;
- ask if there are any points that are unclear;
- use this code of conduct, alongside other council policies, to guide you in your role.

Please note: A breach of this code of conduct may lead to disciplinary action which could result in dismissal. Please refer to the disciplinary procedure for more information.

4 What are the main points?

4.1 Introduction

The public are entitled to expect the highest standards of behaviour from local government employees. As a local authority we have high ethical standards, we declare any conflicts and do not place ourselves in a situation where this may be questioned. Our decisions are made on merit and we are open and accountable for our actions.

We will treat customers, suppliers, and others with respect and courtesy and act solely in terms of benefit to the council.

As an employee you represent the council and are trusted to act in a way which promotes the council's interests and protects its reputation. You must not act in a manner which seeks to gain financial or other benefits for yourself or your family and friends.

You are accountable for your actions and should ask your manager for advice if you are not sure of the appropriate action to take.

4.2 Conflicts of Interest.

A conflict of interest is any activity that is inconsistent with, or opposed to, the council's best interests or that gives the appearance of impropriety or divided loyalty. You must not place yourself in a situation in which you could derive or be perceived to derive personal benefit from actions or decisions made in your official capacity as an employee. A personal benefit could include an advantage for close friends or family. Use good judgements and, if you are unsure about a potential conflict, talk to your manager or a member of the Human Resources team.

You must not use your position to obtain favoured treatment for yourself, family members, or others with whom you have a significant relationship. This applies to purchases, investment opportunities, recruiting, promoting, selecting contractors or suppliers, and any other business matter. If any member of staff finds themselves in a position where they are dealing with a business matter which involves, or is likely to involve, a family member or other person with whom they have a significant relationship, they must take advice from your manager, Human Resources or the Monitoring Officer as a matter of urgency.

If you believe you have a potential conflict involving a family member, or other individual, you must declare it as part of the annual declaration process.

You must not view, approve or amend or otherwise deal with any application, account or other data relating to someone you have a close personal relationship with, without prior permission from your manager. Such personal relationships include immediate family, close friends, colleagues and anyone you are in a contractual relationship with i.e. landlord, tenant, employee or employer.

If a conflict occurs between an employee's private interest and public duty the conflict must be resolved in favour of an employee's public duty.

You should ask yourself the question "Would a member of the public think that my family or I would benefit from the connection between my personal interest and my employment with Cheltenham Borough Council?"

If the answer is yes, then you must declare the interest using the Cheltenham Borough Council Employees Register of Interests and Disclosures Form. Available to download from the Council's intranet pages or as hard copy from your line manager.

You must declare any personal financial or non-financial interests (or interest of your partner, spouse, relation or close friend) which could cause conflict with the authority's interests and which in particular could conflict with your own duties and responsibilities e.g. ownership of property or shares in matters affected by any project in which you may be involved must be disclosed using the Employees Register of Interests and Disclosures form.

Under section 117 of the Local Government Act 1972 you must also disclose any interest in an existing or proposed contract in writing as soon as is reasonably practicable. Disclosures should be made to Human Resources or the Monitoring Officer.

Managing conflicts of interest

Line managers are required to review any conflicts of interest that are declared and to determine whether any actions are required to mitigate the conflict. There may be occasions where the conflict is profound and acute. In such cases it may be necessary to consider a range of possible actions which may include:

- deciding that no action is needed;
- restricting the employee's involvement in discussions and excluding them from decision making;
- removing the employee from the whole decision making process;
- removing the employee's responsibility for an area of work;
- removing the employee from their role altogether if the conflict is so significant that they are unable to operate effectively in the role.

Any manager who is taking these actions must keep a written record of their decisions and must arrange for a copy to be placed on the employee's HR file.

4.3 Professional Memberships

If you are a member of a profession, you are expected to uphold the standards of performance and conduct set by the relevant professional association and this Code of Conduct. However, it is noted that there can be exceptions to this where there is legislative authority to do so.

If you believe a conflict exists between your official role and the standards of your profession, you must raise your concerns with your line manager.

4.4 Political Activities

You should ensure that your right to engage in political or professional activities does not result in an actual or perceived conflict of interest with your official duties with the Council.

You should ensure that you are able, and be seen to be able, to remain unbiased in the performance of those duties.

You must not allow your own personal or political opinions to interfere with your work and you must not use the council's assets (including work time, premises, equipment or funds) to personally support candidates and/or campaigns.

Council employees serve the Council as a whole and in carrying out your work you must be politically neutral, ensuring that individual rights of all elected Members are respected.

Some posts are Politically Restricted. If you are employed in one of these posts, you must not undertake political activities either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for, or holding, political office and these restrictions are incorporated as terms in an employee's contract of employment under the legislation.

Employees who are politically restricted are:

- barred from standing for office as any of the following:
 - local councillors (including town/parish councillors)
 - Members of Parliament
 - Members of the Welsh Assembly
 - Members of the Scottish Parliament
- restricted from canvassing on behalf of a political party or a person who is or seeks to be a candidate;
- not permitted to speak to the public at large or publish any written or artistic work that could give the impression that they are advocating support for a political party. Particular care should be taken with social media posts.

4.5 Working with Members

Mutual respect between employees and councillors is essential to good local government.

Close personal familiarity between employees and elected Members can damage the relationship and cause embarrassment to other employees. Such familiarity should be avoided.

The Council has agreed a [Protocol](#) for Member/Officer (employee) Relations that councillors and employees must comply with. The protocol provides guidance on the ways of working between employees and members.

Councillors have their own Code of Conduct that they are also required to comply with.

In your capacity as a Council employee, you should not attend meetings of political groups unless specifically authorised by the Chief Executive or your Divisional Director. Such neutrality does not mean that you cannot be a member of a political party.

You must respect the individual rights of all councillors and assist them, regardless of their political group, to carry out their responsibilities. Any advice given should be impartial, objective and helpful.

When engaged on council business you must not wear or display items (badges, banners etc.) which indicate your support or opposition to any political party.

You must not seek to influence or lobby a councillor with regards to personal issues.

4.6 Trade Union Representatives

If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the Council. Provisions relating to Facility Time to undertake official union roles are outlined in the Council's Facility Time Agreements.

4.7 Closed Organisations

If you are a member of any organisation not open to the public and in respect of which secrecy about rules or membership or conduct exists you must disclose this on the Employees Register of Interests and Disclosures.

4.8 Working with the Local Community and Service Users

The council complies with all laws and regulations and operates in ways that benefit the communities in which it conduct business. We encourage you to uphold this commitment to the community in all your activities. If you hold an elected or appointed public office while employed at the council you should disclose it as part of the Employee Declaration process. It is important that you do not get involved in any decisions that might create or appear to create a conflict of interest.

4.9 Working with Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager and recorded on your annual declaration form.

Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses operated or controlled by, for example, friends, partners or relatives in the tendering process. You must comply with the council's Contract Procedure Rules at all times.

If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with a contractor who is engaged or who is proposed to be engaged by the Authority, you must declare that relationship to the appropriate manager as soon as practicable.

4.10 Workplace Relationships and Management of Relatives

Personal and family relationships in the workplace may present an actual or perceived conflict of interest, particularly when one individual in the relationship is in a position to make or influence employment decisions regarding the other.

If you find yourself in any of the following situations, you must notify Human Resources immediately so that they can assist you in resolving any potential conflict. If you don't, you may face disciplinary action:

- in a personal relationship with a colleague, Councillor or contractor;
- in a reporting relationship with a relative or someone with whom you are in a personal relationship; or
- part of a recruitment process/interview panel that is considering a relation for employment

Favouritism, or conflicts of interest, may arise where managers are involved in processes which involve people with whom they are in a personal relationship or whom they are related to, for example hiring, promotion, renewal of contracts, completion of performance reviews and disciplinary matters.

To avoid such incidents or suspicions of favouritism and conflict of interest you must comply with the following principles:

- Employees who are in personal relationships or related must not be involved in a supervisory/reporting relationship with one another
- Employees cannot be transferred, promoted or hired inside a reporting relationship with someone with whom they are in a personal relationship or to whom they are related.
- Employees cannot be part of the recruitment process/interview panel when a person with whom they are in a personal relationship or to whom they are related is being considered for a position.

If you find yourself in a reporting relationship with someone with whom you are in a personal relationship or whom you are related to or part of a recruitment process/interview panel that is considering someone with whom you are in a personal relationship or whom you are related to for employment you must immediately report it to HR. If you don't, you may face disciplinary action.

If two employees who are in a reporting relationship enter into a personal relationship or become relatives in the course of their employment, one of the two must be transferred. The Council will give the employees time to discuss and choose which of them will be transferred, before management makes a final decision. Decisions will be made from a business perspective, with careful attention to equality and personal circumstances.

We expect you to act professionally when working with a relative or with someone with whom you are in a personal relationship and not allow your relationship to disrupt the workplace or interfere with your work or judgement. You should seek advice from your manager or HR if there are any problems.

4.11 Working Safely

The council operates in a manner that protects the health and safety of our people. Any activity that presents a significant risk to the health, safety or well-being of an employee or other person must have been subject to a written [risk assessment](#). This is a tool which managers must use to determine the safest and best way of carrying out the work, including appropriate training, personal protective equipment etc.

Appropriate safety controls should all be summarised on the risk assessment or safe system of work procedure and provided to the relevant employees.

You must follow the resulting safe system of work to ensure your safety and that of others is not put at risk. If these are not in place, speak to your manager in the first instance or your Health and Safety Adviser. For more information, please visit the [Health and Safety](#) page on the Intranet.

4.12 Outside Employment and Voluntary Work

Your off-duty hours are your personal concern but your activities outside of work should not conflict with your duty to the council.

Any additional employment should not conflict with the council's interests or have the potential to bring the council into disrepute.

For posts above salary grade G, you are required to obtain the written consent of your Director before taking any other paid or unpaid employment.

For posts salary grade G or below, you must still notify your Director in writing if you intend to undertake any other role or work, whilst express permission to do so is not required, you must still notify us as part of the annual declaration. As with any potential conflict of interest, Cheltenham Borough council reserve the right to reject the conflict.

Please see the notification of additional employment form [here](#).

Once permission has been obtained, or appropriate notification given, you can commence your outside employment or operate an outside business, provided that you do not:

- Participate in an outside employment activity that could have an adverse effect on your ability to perform your duties at the council or be in conflict with our work.
- Use any of our assets for your other job/business
- Use your position to solicit work for your outside employer/business or to obtain favoured treatment.
- Use our confidential information to benefit your other employer, outside business, or invention.
- set up a business, or accept a job with a business, which is in direct competition with the council. Act as a messenger between the other organisation and the council. Formal channels of communication must be maintained.

- Carry out your secondary employment during your contracted council working hours, or whilst on standby for official call out purposes unless such employment can be undertaken from your home.

It is your responsibility to monitor the number of hours you work and to ensure that you are rested and refreshed and able to carry out your role. On average you should not work more than 48 hours in total each week unless you have opted out of the working time regulations. Please see the opt out form here. [S:\Working Time Regulations Opt form.docx](#)

4.13 Confidentiality

As part of your job, you may have access to personal and/or confidential information. This information must only be shared with those who have a need to know for business reasons and in accordance with the relevant Data Protection legislation. It must not be shared outside the council unless there is a legal or business reason to share the information and you have approval from your manager.

Customers, suppliers, and others disclose confidential information to the council for business purposes. It is the responsibility of every employee to protect and maintain the confidentiality of this information. Failure to protect customer and third-party information may damage relations with customers, suppliers, or others and may result in legal liability.

You must take all reasonable steps to ensure that the loss, destruction, inaccuracy or improper disclosure of information does not occur as a result of your actions.

All employees are required to comply with ICT User Policies and the Data Protection Policy at all times.

4.14 Time, Council property, equipment and publications (including social media)

You must spend all of your contracted hours working for the council.

Computers and software (e.g. email, internet) may only be used in line with the Acceptable Use policy. When you sign on to the Councils computer system you are asked to accept the terms of Acceptable Use Policy. Please make sure you are fully aware of the content of this [policy](#).

Personal use of the council's property or facilities (stationery, photocopiers, etc) is not acceptable.

You may only use the council's landline to make or receive private calls in exceptional or emergency situations, for example when you do not have your own personal mobile phone with you, your own personal mobile does not have signal or you are not able to access a public phone box. Exceptional or emergency situations does not mean repeated calls to the same number/numbers however if there is a repeated need i.e. to phone the same contact number/numbers then you must make your own arrangements.

You may use your CBC owned work phone for personal use. You should aim to keep such usage within the data allowance. Where the data allowance is exceeded due to personal use, then CBC reserves the right to deduct those costs from pay and/or request you to make a contribution.

Personal calls and personal text messages / images sent from the phone are to be treated in the same way as those sent in a business capacity i.e. you should not access, store or distribute any offensive or inappropriate material with the smart phone.

Any public funds entrusted to you must be used in a responsible and lawful manner.

If you want to publish any material which you have written in connection with your duties or in which you describe yourself as holding a position within the council you must first gain the consent of your manager.

If, in the course of your work, you create a copyright work (for example a procedures manual or a software programme); patentable invention; design capable of registration; this would become the property of the council and, if appropriate, you would be required to cooperate in the registration formalities.

4.15 Equality

The council is firmly committed to the principles of equality, diversity and inclusion and has a positive duty to promote these within the community it serves.

You must treat colleagues, clients and customers with respect, do not discriminate unlawfully against any person and treat members and co-opted members of the authority professionally.

You must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.

If you have any involvement in making recruitment appointments you should ensure that your decisions are based only on the ability of the candidate to undertake the duties of the post.

If any applicant is a friend or relative you must not be involved in the recruitment appointment process.

You must not be involved in any decisions relating to discipline, grievance, pay or promotion of personal friends or relatives.

This policy is currently awaiting sign off.

4.16 Dealing with the Council's money

You must ensure that they use public funds entrusted to you are spent in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

Should you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the Council's Standing Orders, financial regulations and contract procedure rules etc.

When committing Council money, you must ensure that there is an approved budget for such expenditure and that the expenditure is within the limits that you are personally authorised to incur.

If you are involved in the tendering process and dealing with contractors you must be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractual responsibility must be aware of the need for accountability and openness.

You should ensure that no special favour is shown to current or recent former employees or their associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

You must declare any financial interest, whether direct or indirect, that you or your partner may have in any contract or proposed contract with the Council.

You should also consider declaring non-financial interests, for example, where you do voluntary work for an organisation in receipt of a grant from the Council. If you are in any doubt, then you should make a declaration.

4.17 Side Deals or Side Letters

All the terms and conditions of agreements entered into by the council must be formally documented. Contract terms and conditions define the key attributes of the council's rights, obligations, and liabilities and can also dictate the accounting treatment given to a transaction. Making business commitments outside of the formal contracting process, through side deals, side letters, or otherwise, is unacceptable. You must not make any oral or written commitments that create new agreements or modify existing agreements without obtaining approval through the formal contracting process.

4.18 Gifts, Hospitality and Sponsorship

You must not accept any fee or reward for work done other than your pay and allowances as set out in your contract of employment except as set out in paragraphs below.

It is an offence under the Bribery Act 2010 and/or Prevention of Corruption Act to accept gifts, loans, fees or rewards as an inducement to act in a certain way in your official capacity.

You may accept small items (as a guide worth up to the value of approx £25. e.g. inexpensive pens, diaries, flowers, chocolates) where it is clear that the gift or hospitality does not compromise yours or the Council's position regarding future, current or past contracts or decisions. You should be particularly sensitive to the timing of offers of gifts or hospitality in relation to decisions that the Council may have taken, or be about to take, which affect those providing the gift or hospitality.

A copy of the Council Employees Gifts, Hospitality and Sponsorship request for [approval form](#) is located on the HR pages of the intranet and at the end of this document.

You may only accept an offer of a more significant gift (as a guide worth more than £25) or hospitality (e.g. visits, meals, sporting events etc.) if there is a genuine need to do so in order to represent the council in the community.

Gifts, benefits and hospitality offered to you or members of your family as a consequence of your employment must be declared using the above form. Your manager will make a judgment as to whether you can accept or decline the offer.

You should never accept significant gifts or hospitality from service users, actual or potential contractors or outside suppliers.

If an external organisation wishes, or is sought, to sponsor a council activity the rules concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Your divisional director must be involved in any decision.

Where the council wishes to sponsor an event or service no employee or member of their family must benefit unless full disclosure of interest has been made to the relevant corporate director. All sponsorship must be recorded.

Your manager may approve gifts and hospitality that are clearly within the guidelines set out in this code. If there is any doubt, the offer should be referred to the Director. Where gifts or invitations are refused, you should ensure that there is a sufficient record on file to clearly demonstrate this.

Directors receiving such offers should seek approval from the Chief Executive. The Chief Executive receiving such offers should seek approval from the Leader of the Council.

All authorised and non authorised Gifts, Hospitality and Sponsorship request for approval forms must be sent to the Monitoring Officer for entry into the Council's Register of Gifts and Hospitality. The Register is open for inspection by persons authorised by the Chief Executive.

4.19 Bribery, Corruption and Fraud

The council will not tolerate any instances of bribery, corruption, fraud or theft. This includes abuse of position and will result in disciplinary action and may also result in criminal proceedings against you.

You must be aware that it is a serious criminal offence for any employee to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.

If an allegation is made against you, you must fully co-operate with any investigation, and you will need to be able to demonstrate that any such rewards have not been corruptly obtained.

If you are in receipt of or your residence at a property impacts on someone else's receipt of Housing Benefit and/or other related benefits you must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the Council's Disciplinary Policy.

In relation to above, you must keep your personal data up to date and inform the Human Resources team of any changes to your current home address or in cases where more than one address is frequented the address that you normally class as your home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name and/or marital status must also be communicated to the Human Resources team.

Contract and procurement fraud, both internal and external, is not acceptable under any circumstances. You must be act with integrity and honesty in all your business activities and you must be particularly vigilant if your role involves any of the following:

- Raising requisitions for goods and services,
- Authorising the procurement of goods and services,
- Writing of specifications or reviewing tenders for the supply of goods and services,
- Contract management or monitoring or,
- Amending or creating suppliers or customers in Business World.

All staff must ensure that they are familiar with the councils [Counter Fraud and Anti-Corruption Policy](#)

4.20 Standard of Appearance, Uniform and PPE

There is a general expectation that standard of appearance will be appropriate to the standards set by managers of individual service areas.

Your dress style must reflect appropriate workplace health, safety and security considerations applicable to your job and work environment.

Uniforms are provided for some employees, and these should be worn unless otherwise agreed with the manager.

Suitable personal protective equipment (PPE) will be issued and must be worn where a risk assessment indicates it is appropriate.

4.21 The Press and the Media

You must not deal directly with the press and/or the media unless required to do so in the course of your work or you have been expressly authorised and trained by an appropriate member of the Senior Leadership Team to do so.

Approaches from all press, radio or TV stations or other media for information or comment on issues affecting the work of the Council must be referred to the Communications Team who will discuss the nature of the story and then contact the appropriate employee or member asking them to respond.

Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.

4.22 Use of Personal Social Media Accounts

You should be aware that social networking websites are public forums and you should not assume that your entries will remain private. When communicating via social media you must not:

- conduct yourself in a way that brings the council, any employee or councillor into disrepute; or
- disclose information that is confidential to the council.

When using any social media platform you must follow the [social media guidelines](#).

4.23 Criminal Charges, Convictions and Misconduct

You must conduct yourself in a professional manner at all times at work. Serious misconduct and/or criminal offences committed during or outside of working hours which bring you or the council into disrepute may be the subject of disciplinary action which could lead to dismissal or even prosecution.

The Council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act applies, and the rehabilitation period has expired. In some circumstances, Disclosure and Barring Service (DBS) checks are conducted on all successful applicants for certain positions in the Council.

Once you are an employee, you must notify the Council in writing if you are charged with any criminal offence or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (i.e. next working day). If you are convicted of any offence, the notification must be given immediately after you are convicted (i.e. next working day). It should

be noted that the term “conviction” includes a finding of guilt, regardless of whether or not a conviction is recorded. Failure to notify the Council in either case will constitute grounds for disciplinary action.

5. Annual Employee Declarations

To ensure that the Council is aware of any potential conflicts or interests it conducts an annual employee declaration process which requires employees to update their information and disclose any related party transactions. You are required to complete this form promptly when requested. You also have an ongoing duty to keep this information up to date and any changes throughout the year must be notified to the Monitoring Officer.

6. Are there any exemptions to this Code?

No – however some parts of the code of conduct will have more of an effect on senior, managerial and professional employees than others.

Many employees are responsible under their own professional codes of conduct (e.g. lawyers, accountants). In cases where professional codes of conduct appear to conflict with the council's own code advice should be obtained from your manager.

7. What happens if the content of the Code changes?

The Council will take every reasonable step to ensure that the Code of Conduct is kept up to date. The most up to date version will always be the one that is available on the HR pages of the Council's Intranet site. Proposed changes to the Code will be consulted on with Trade Unions and communicated to employees via line manager briefings and written updates on the Council's intranet pages.

8. Reporting Breaches of the Code and Whistleblowing

If you are concerned about any practice you see in the Council which you think conflicts with the Code of Conduct, you should obtain advice from your manager, Trade Union representative, HR Operations Manager or any other appropriate person as identified in the Council's policies referred to in the Code of Conduct.

The Public Interests Disclosures Act 1998 and the [Council's Disclosure \(Whistleblowing\) Policy](#) can provide safeguards for employees and public officials who disclose unlawful and improper conduct including breaches of this Code.

Any suspicion of money laundering must be reported in the first instance to the Section 151 Officer.

9. Line manager responsibilities

Manager must provide additional advice and guidance on any points within the code of conduct and should signpost employees to relevant policies, documents and guidelines.

10. Where can you find details of the policies and standards that apply to you?

There are a number of related documents and policies which you should be aware of:

Title: Code of Conduct - Employees

Issued by: HR Operations Team

First Issue: October 1994

Review: As required

- Cheltenham Borough Council's Constitution
- Communication/Media relations protocol
- [Whistle blowing policy](#)
- [ICT acceptable use policy](#)
- [Data protection policy](#)
- Dignity at work policy
- Equal opportunities policy
- [Disciplinary policy & procedure](#)
- [Grievance policy & procedure](#)
- Financial Regulations
- Standing Orders
- [Information Security Policy](#)

If you are affected by any of the information contained in this document or you are in any doubt about how they apply to you, you should always refer to the detailed rules or the policies and procedures in full in any of the following ways:

- You can ask for a paper copy from your line manager or supervisor
- You can contact a member of the HR Team and either ask for it to be emailed to you or for a paper copy
- Through your New Starter induction process
- You can find the information on the Council's Intranet site, in the HR section.

Frequently asked questions

Q1 What should I do if I know that someone is breaching this code of conduct?

Often it is those closest to an organisation who realise that there is something wrong. Sometimes people are reluctant to act upon their concerns because they think that they are being disloyal, or because they are afraid that they might be victimised if they speak up.

The council has in place a whistle blowing policy to enable employees to raise concerns in an appropriate manner and to ensure that they do not suffer any detriment as a result of doing so.

Q2 Can my partner's business tender for a contract?

The code of conduct does not preclude anyone from having the opportunity to tender for business. However, the process must be, and be seen to be, fair open and transparent. To this end you would need to make your manager aware of your interest, take no part in the tendering process and ensure that you do not pass on any information which would give that business any advantage in the process.

Q3 Can my relative apply for a job in the council?

Yes. They can apply and would be considered on the basis of their suitability for the role. They should declare their relationship to you on the appropriate section of the application form.

If you are involved in recruiting for the role, you should not be involved in any stage of the appointment and should disclose the relationship as soon as you are aware they are applying for the role so that someone else can be assigned to the appointments process.

Q4 Can I take an additional evening, day or weekend job?

For posts above salary grade G, you are required to obtain the written consent of your Director before taking any other paid or unpaid employment.

For posts salary grade G or below, you must still notify your Director in writing if you intend to undertake any other role or work, whilst express permission to do so is not required, you must still notify us as part of the annual declaration. As with any potential conflict of interest, Cheltenham Borough council reserve the right to reject the conflict.

Please see the notification of additional employment form [here](#).

In all circumstances employees must remember:

- They should not do work which is in direct competition with the council;
- The work they are doing should not bring the council into disrepute;
- They may not act as a "go-between" between the council and the other business;
- They must not undertake other work when they are on duty for the council, including during standby or call out duties unless the work can be undertaken from home;
- That they are responsible for ensuring they get enough rest and do not exceed working time regulations.

Q5 One of my clients bought me a box of chocolates – should I accept them?

Generally, gifts which are of low value (under £25) can be accepted. You should be guided by the procedures within your own team and by common sense. Regardless of whether the gift is accepted or not it must be registered using the Council Employees Gifts, Hospitality and Sponsorship request for [approval form](#).

Q6 Can I accept discounts because I work for the Council?

Discounts which have been formally agreed corporately and accepted by the council on behalf of all their employees can be found on the social section - employee discounts pages of the intranet.

Any other discount offered should be treated in the same way as gifts and hospitality and generally should not be accepted.

Q7 Can I campaign for a political party outside of work?

If you hold a politically restricted post you may not

- be a candidate for membership of the European Parliament, the House of Commons, or a County or District Council;
- hold office in a political party;
- canvass at elections;
- speak or write in public on party political matters.

You may be a member of a political party but not actively campaign.

If your post is not politically restricted you may campaign on behalf of a political party however when engaged on council business you must remain politically neutral and not allow your personal or political views to interfere with your duties.

Q8 What types of interests should be declared?

An interest is anything which could cause a reasonable member of the public, knowing all facts, to think the Employee might be influenced when making a decision in the course of their work.

Interests could include:

- Land or property ownership
- Relationships with people involved
- Acting as a school governor
- Involvement with an organisation or pressure group which may oppose a council policy
- Another job

Individuals are free to take part in activities organised and authorised by the Trade Unions without declaring an interest.

Q9 Can I use the photocopier at work to make personal copies?

You should get authorisation from your manager before using any work facilities for personal use.

Q10 I often get emails/mail shots offering me free admission or attendance to a seminar or training event. I just delete/bin them. The reason being my diary commitments or the location of the event is too far to travel. Should I register the fact the fact I have been offered and I have declined/deleted the invitation?

No. You only need to complete Council Employees Gifts, Hospitality and Sponsorship request for approval form if you wish to attend the event.

Examples of the types of gifts, hospitality and sponsorship are set out below together with guidance on whether or not they should be accepted.

Conferences/Learning & Development Events

Reasonable hospitality through attendance at relevant conferences, courses, seminars, user groups and meetings are acceptable where it is clear that the hospitality is corporate rather than personal and/or where the line manager is satisfied that purchasing or other decisions are not compromised. The attendance at the event should be authorised by the Line Manager and recorded on a Council Employees Gifts, Hospitality and Sponsorship request for approval form and be entered into the Council's Register of Gifts and Hospitality.

Fees, gifts or hospitality received by employees contributing to conferences, seminars, etc, should be authorised by the Line Manager and recorded on a Council Employees Gifts, Hospitality and Sponsorship request for approval form and be entered into the Council's Register of Gifts and Hospitality.

Exhibitions

Trade exhibitions tickets received free of charge should be used only if the employees attendance is considered of benefit to the Council. The attendance should be authorised by the Line Manager and recorded on a Council Employees Gifts, Hospitality and Sponsorship request for approval form and be entered into the Council's Register of Gifts and Hospitality.

Meals

Where there is an on-going working relationship between the employee and an outside organisation or person and the relationship occasionally involves hospitality such as working lunches, the employee should ensure that expenses are shared equally and are not excessive. Modest bar meals may be acceptable but lunch at expensive venues may not. All such hospitality should be authorised by the Line Manager and recorded on a Council Employees Gifts, Hospitality and Sponsorship request for approval form and be entered into the Council's Register of Gifts and Hospitality.

Travel

Free or discounted transport or holidays should not be accepted unless the offer is of a corporate nature open to all employees of the Council.

Visits to suppliers

Where visits to inspect equipment or products are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Hospitality, over and above light refreshments, should not be accepted from suppliers or prospective suppliers.

Sporting and social events

Sporting and social functions should only be accepted if they are part of the life of the Cheltenham community and/or where the Council should be seen to be represented. They should be authorised by the employee's line manager and recorded on a Council Employees Gifts, Hospitality and Sponsorship request for approval form and be entered into the Council's Register of Gifts and Hospitality. Examples include school sports days or competitions involving local teams, representative gatherings of community interest groups, meetings of public organisations and events organised to celebrate achievement affecting Cheltenham.

Q11 I am a member of a school governing body – do I need to declare this?

Yes - employees should always err on the side of caution and declare interests that they think could be covered by the following guidance:

- Membership of outside bodies in a voluntary or paid capacity and where personal involvement could compromise an individual's professional duty to the interests of the Council, for example, involvement in an official capacity with an outside organisation which has dealings with the Council e.g. grant requests.
- Involvement in companies including directorships and company secretary, or any other position where a person is actively involved in the running of a company's affairs, where the company has, or may have, a contractual relationship with the Council.

Q12 My brother in law has been elected as a councillor. Do I need to declare this?

Yes. Any family relationships with Councillors and/or other employees must be declared.

Q13 The code of conduct does not cover my specific situation, what should I do?

In the first instance seek advice from your manager. They may refer you to other policies and procedures or refer your query to their Director, Human Resources or the Monitoring Officer.

Privacy Notice

This privacy notice tells you what to expect us to do with the personal information supplied as part of our declaration process. For any queries please email: hr@cheltenham.gov.uk

What information we collect and use, and why

We collect or use the following personal information as part of staff recruitment, administration and management:

- Contact details (eg name, address, telephone number or personal email address)
- Political, conflict of interest or gift declarations

Lawful bases and data protection rights

Under UK data protection law, we must have a “lawful basis” for collecting and using your personal information. You can find out more about lawful bases and your data protection rights and the exemptions on the ICO’s website.

Our lawful bases for collecting or using personal information as part of **staff recruitment, administration and management** are:

- Contract – we have to collect or use the information so we can enter into or carry out a contract with you. All of your data protection rights may apply except the right to object.

Where we get personal information from

We collect your information from the following places:

- Directly from you

How long we keep information

We keep your data for up to 7 years from the date of termination of your employment.

Who we share information with

In some circumstances, we may share information with the following organisations:

- External auditors

How to complain

If you have any concerns about our use of your personal data, you can make a complaint to us using the contact details at the top of this privacy notice. If you remain unhappy with how we’ve used your data after raising a complaint with us, you can also complain to the ICO: www.ico.org.uk/make-a-complaint

Part 5C – Protocol for Member/Officer Relations

1. Introduction - Respective Roles of Members and Officers

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 1.2 This Protocol reflects the principles underlying the Code of Members' Conduct and the Code of Conduct for Employees. The object of those Codes is to enhance and maintain the integrity (real and perceived) of local government and demand high standards of personal conduct.
- 1.3 The Code of Members' Conduct (Constitution Part 5A) provides, inter alia, at Part IV – Rules of Conduct that:
 6. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
 7. Members shall observe the following rules:-

General Requirements

- (1) Do treat others with respect.
- (2) Do not bully any person.
- (3) Do not do anything which may cause your Authority to breach any of the equality enactments.
- (4) Do not use your position improperly, to confer on or secure for yourself or any other person, an advantage or disadvantage.
- (5) Do not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, your Authority.
- (6) Do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.

- (v) before making any disclosure under the provision and (iv) above, the written advice of the Borough Solicitor must be sought and considered.
- (7) Do not prevent another person from gaining access to information to which that person is entitled by law.
- (8) Do promote and support high standards of conduct when serving in your public post by leadership and example.

When using the resources of the Authority, or authorising the use of those resources by others:

- (9) Do act in accordance with the Authority's reasonable requirements including the requirements of the Authority's IT Policy;
- (10) Do make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (11) Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986;
- (12) Do not improperly use knowledge gained solely as a result of your role as a Member for the advancement of your own interests.

When making decisions on behalf of, or as part of, the Authority:

- (13) Do ensure that decisions are made on merit, particularly when making public appointments, awarding contracts, or recommending individuals for rewards or benefits.
- (14) Do have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- (15) Do be as open as possible about your own decisions and actions and those of your authority and be prepared to give reasons for those decisions and actions.
- (16) Do ensure that you are accountable for your decisions and co-operate fully with whatever scrutiny is appropriate to your office.

1.4 In line with the Code's reference to "*respect*" it is important that in any communications/dealings between Members and Officers the parties should be courteous and that neither party should seek to take unfair advantage of their position.

1.5 The fundamental principles essential for ensuring proper relationships between Members and Officers are:

- (i) the political neutrality of Officers; and
- (ii) a clear understanding of, and respect for, their distinct roles.

2. Political Neutrality

- 2.1 The primary responsibility of any Officer is to serve the Council as a corporate body. Where this duty conflicts with any duty to individual Members of the authority then the duty to the Council shall prevail.
- 2.2 Officers must act apolitically, whether or not they hold politically restricted posts, and Members must try to avoid putting Officers, whether intentionally or otherwise, in situations where their political neutrality might be compromised or appear to be compromised. This would include actions such as applying pressure on an Officer to alter the presentation or substance of their advice in reports.

3. Officers as Employees

- 3.1 Officers are employed by the Council as a corporate body.
- 3.2 The Employment Rules (Part 4F of the Constitution) deal with the appointment, disciplining and dismissal of officers. In general terms Members shall not be involved in such matters other than in respect of Chief Officers, Deputy Chief Officers, Statutory Officers and Political Assistants.
- 3.3 Members can expect Officers to:
- Maintain confidentiality where necessary and lawful
 - Perform their duties effectively, efficiently and with political neutrality
 - Behave in a professional and courteous manner
 - Be helpful to Members and respect their role
 - Avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly
 - Report to the relevant Director any time a Member asks or pressurises the Officer to deal with a matter outside of Council procedure or policy
 - Demonstrate an understanding of and support for respective roles, workloads and pressures
 - Comply with any relevant Code of Conduct
- 3.4 Officers can expect from Members:
- Leadership within the political sphere and direction
 - Respect, dignity and courtesy
 - An understanding of and support for respective roles, workload and pressures
 - Not to be subjected to bullying or undue pressure, including through written and verbal communications

- Not to use their position or relationship with Officers to advance their personal interests or those of others to improperly influence decisions
- Compliance with the relevant code of conduct

4. Relationship between the Leader and Officers

- 4.1 The Leader will be at the centre of the Cabinet and will need the close working support of a number of Officers. The relationship between the Leader and those Officers must never be, or give the appearance of being, so close as to bring into question the Officers' ability to deal impartially with other Members, especially those belonging to other party political groups.

5. Relationships between Members of the Cabinet and Chairmen and Officers

- 5.1 It is clearly important that there should be a close working relationship between Members of the Cabinet (whether or not they exercise personal executive powers), Chairs of Overview and Scrutiny and other Committees and the Senior Officers who support them in their respective roles.

However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party political groups.

- 5.2 Whilst Officers should always seek to assist Cabinet Members, a Committee Chair or, indeed, any Member, they must not in so doing go beyond the limits of the authority they have been given by their Manager.

6. Partnerships et cetera

- 6.1 The increasing involvement of the Council in various forms of partnerships with other bodies, creates situations where Members and Officers are drawn into new non-traditional working relationships. These could pose difficulties if Members and Officers lose sight of the fundamental principles which define their different roles.

7. Officer Advice to Party Political Groups (Political Groups)

- 7.1 Political Groups are a recognised part of the local government structure and their role is recognised and facilitated by statute.

Officers may properly be called upon to support and contribute to deliberations by political groups on matters likely to come before the Council, the Cabinet or Committees. They must do so in ways which do not compromise their political neutrality.

- 7.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member or a Committee Chair to a presentation to a full political group meeting.

Whilst in practice such Officer support is likely to be most in demand from whichever political group forms the administration of the Council, such support is available to all political groups.

- 7.3 Any request for an Officer to attend a political group meeting should be made through the Chief Executive or the appropriate Director.

- 7.4 The following matters must be understood by all those participating in political group meetings, Members and Officers alike -

- (a) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political party business; the observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political party business are to be discussed;
- (b) where Officers provide information to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for the obligation to provide all necessary information and advice to the Council, Cabinet or a Committee when the matter in question is considered;
- (c) any strategy or policy which may emerge from the meeting is that of the political group alone;
- (d) special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council;

If, at a meeting of a Political Group attended by an Officer, there are other persons who are in attendance who are not Officers or Members of Cheltenham Borough Council and therefore not bound by the relevant Code of Conduct (including the declaration of interests and confidentiality) Officers may not be able to provide the same level of information and advice as they would to a Member only meeting.

- 7.5 Officers must respect the confidentiality of any political group meetings at which they are present in the sense that they should not relay the content of any such discussion to another political group. Officers

should not be requested, by the Overview & Scrutiny Committee to answer questions on such matters.

8. Support Services to Members and Party Political Groups

- 8.1 The only basis on which the Council can provide support services (e.g. stationery, typing, printing, photo-copying, I.T., transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

9. Members' Access to Information and to Council Documents

- 9.1 Members are free to approach the Chief Executive or any other Director to provide them with such information, explanation and advice, especially about the functions of the Directorate concerned, as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should be made only to the relevant Director, unless the relevant Director has agreed otherwise.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered by statute and common law.
- 9.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet or Committee meeting. These rights are summarised in the Access to Information Rules (Part 4E) and extend not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear as exempt items on the agenda (pink papers), or to documents which are in evolution and have not been finalised.
- 9.4 The common law right of Members is broader; it is based on the principle that any Member has a prima facie right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.
- 9.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know".

In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient.

The crucial question is the determination of the "need to know". This question must initially be determined by the relevant Director holding the document in question, with advice, if necessary, from the Borough Solicitor/One Legal.

- 9.6 In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee or a member of Overview and Scrutiny Committee wanting to be informed about a matter within the remit of that Committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. It is unlikely that a Member will ever have a "need to know" in respect of personal details about individual Officers.
- 9.7 Whilst the term "Council document" is broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party political group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party political group.
- 9.8 A Member is not entitled to inspect any document, or have access to any information, about a matter in which
- (1) he/she has, in accordance with the Code of Members' Conduct, a disclosable interest which would restrict participation or
 - (2) he/she is acting in a professional capacity, for example, on behalf of a client negotiating with the Council or involved in litigation against the Council.
- 9.9 A Director may refuse a Member access to a document for the above or other good reasons such as the request being frivolous, vexatious or where a reasonable amount of information has already been provided. The Director must inform the Member in writing of the actual reason.
- 9.10 If a Member is not satisfied with a decision by a Director he/she may refer the matter to the Chief Executive, who having sought such advice as he/she considers appropriate, shall determine finally whether or not the Member should be given the access requested.
- If the original request had been made to the Chief Executive and a Member is not satisfied with the Chief Executive's decision, the matter shall be referred to the Monitoring Officer for determination.
- 9.11 Members have the same rights as any member of the public to access to information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

- 9.12 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Borough Solicitor/One Legal.

10. Involvement with Ward Councillors

- 10.1 Wherever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected must as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members must be notified at the outset of the exercise.

11. Public Meetings called by Individual Councillors or Party Political Group

- 11.1 If an individual Member or a party political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply that it is a Council meeting.
- 11.2 Any request for an Officer to attend such a meeting must be made through the Chief Executive or the relevant Director.

It must be made clear to those attending such a meeting that any Officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposal or initiative. This is essential because of the need for Officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

12. Member/Officer Dealings and Correspondence

- 12.1 It is permissible and practical for Members to seek straightforward factual information from any Officer and to enquire as to technical or professional matters of appropriately qualified Officers whose duties include advising Members. In this respect it is important that Members should not take advantage of an Officer less senior in order to make demands which are inappropriate to that level of post. Members should also appreciate that less senior Officers may need to discuss with their line managers any requests made, or information (confidential or otherwise) provided, by the Member. Anything which is contentious, or which requires a complex opinion, or judgment should be directed to the relevant Director.
- 12.2 Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member, unless the Member has himself or herself sent copies to other Members; in this case copies will normally also be sent to those Members as well.

Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.

- 12.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. in respect of executive matters or representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm.

Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

13. Complaints

- 13.1 Should a Member have cause to complain about the actions or behaviour of any Officer of the Council he/she should lodge their complaint, preferably in writing with the Director with Management responsibility for that Officer. If the complaint is against a Director, the complaint must be made to the Chief Executive. If the complaint is against the Chief Executive personally the complaint must be made to the Monitoring Officer. The Officer to whom the complaint is made will take appropriate action to resolve it and will notify the Member of the Council who made the complaint of the action which has been, or is intended to be, taken to resolve it.
- 13.2 Should an Officer have cause to complain about the actions or behaviour of any Member of the Council, the Officer should draw his/her concern to the attention of his/her Manager who will consider the matter and, acting through the appropriate Director / Chief Executive, will seek to resolve the issue with the Member concerned or, if this is not possible, with the Member's Political Group Leader. If the complaint is against a Political Group Leader then it should be drawn to the attention of the Deputy Group Leader. The Member to whom the complaint has been referred, will deal with it and will notify the Officer making the referral of the action which has been, or is intended to be, taken to resolve the complaint.

Where the complaint appears to involve an allegation of a breach of the Code of Members' Conduct, the appropriate Director/Chief Executive will consult the Monitoring Officer.

- 13.3 Complaints should not be raised or referred to during Council, Cabinet or Committee meetings, except for those meetings expressly called for that purpose.

This page is intentionally left blank

Part 5D- Planning Protocol

Contents table

1.	Introduction	2
2.	The Planning Committee	2
2.1	The development management role of the Committee	2
2.2	Statutory functions of the Committee	3
2.3	The role of members of the Planning Committee	3
2.4	The role of officers	3
3.	Advice and guidance for Members	4
3.1	Calling applications to Committee	4
3.2	Code of Conduct	5
3.3	Interests under the Code of Members' Conduct.....	5
3.4	Relationship with Officers.....	6
3.5	Engagement – contact with applicants, developers, supporters and objectors	7
3.6	Lobbying	8
3.7	Predetermination and Predisposition	9
3.8	Planning Committee Members who serve on Parish or County Councils	9
3.9	Hospitality	10
4	Site visits	10
5	Public speaking at meetings	11
6	Decision making and the voting process	12
7	Non Committee Members attendance at Committee Meetings	13
8	Training.....	13
9	Rules around certain types of application.....	13
9.1	Planning Applications from a Member or their relatives	13
9.2	Planning Applications submitted by the Council itself	14
9.3	Applications submitted by Officers	14

1. Introduction

- 1.1 This Protocol sets out guidance for both officers and members when determining planning applications, specifically those which come before the Planning Committee for determination.
- 1.2 It sets out the role of the Planning Committee and its members, how the Committee will operate and when and how it takes decisions. It should be read in conjunction with the Code of Conduct for members.
- 1.3 Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is often highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions). This is reinforced by the legal status of development plans and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making.
- 1.4 **The aim of this Protocol:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way and provide the public with a transparent explanation of the planning process and the roles and responsibilities within that process.

2. The Planning Committee

2.1 The development management role of the Committee

- 2.1.1 The development management role of the Planning Committee is to manage development and other operations in the Borough, so as to provide a satisfactory physical, social and economic environment for the benefit of the whole community by exercising the Council's powers under the Town and Country Planning Acts, and various legislative provisions concerned with the protection of the environment, in accordance with the approved development plan, the policy framework, the Local Plan and the Council's relevant adopted strategies including the strategies for Climate Emergency and Green Economic growth, subject to any agreed scheme of delegation to officers. As a quasi judicial Committee members of the Committee are required to be non-partisan and to represent the entire borough. The practice of political whipping has no place in the decisions of the Planning Committee, because decisions must be made on material planning considerations. The Committee may authorise the enforcement of planning control and, in conjunction with the Senior Officer responsible for Planning, has the responsibility for enforcing compliance, and the Committee may authorise any remedial action including prosecution that is permissible by law to achieve compliance.

2.2 Statutory functions of the Committee

2.2.1 The Committee is responsible for those functions allocated to the Council under the statutory provisions (to include statutory instruments, government circulars and planning policy statements and guidance) for control over development as defined in section 55(1) of the Town and Country Planning Act 1990 or any replacement legislation within the Borough or that will have an impact on the Borough save those matters delegated to officers and included in the scheme of delegation. Members involved in the planning process shall at all times comply with the requirements of this protocol, which are in addition to the Code of Conduct for members.

2.3 The role of members of the Planning Committee

2.3.1 In making decisions on planning applications, you will:

- act fairly and openly;
- act impartially, approaching each application with an open mind;
- make decisions with sound judgement and carefully weigh up all the material planning considerations;
- not favour any person, company, group or locality, nor put yourself in a position where you appear to be doing so;
- ensure that valid reasons for decisions are clearly stated
- Understand, and be able to interpret, all the plans and policies that are relevant to making your decision. This includes national and local plans, policies and guidance.
- Have regard to wider Council strategic plans and objectives, and financial aspects e.g. economic growth strategies, any proven need for house building and numbers;
- Listen to people on both sides and being fair to all;
- Be aware of the duty to objectors and the duty to applicants as well

2.4 The role of officers

2.4.1 The role of officers is to handle all applications in a professional and balanced way. They will visit the site and consider all representations made about an application. Officers involved in the processing of applications must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct.

2.4.2 As a result, planning officer's views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

2.4.3 Every application is dealt with by a case officer who will handle the application from validation through to determination and beyond. Members will be advised who the



case officer is through the weekly list of planning applications; this is emailed to all members.

- 2.4.4 All applications will be presented in the form of an Officer report which will deal with all relevant documents in connection with an application. Any additional information received after the preparation of that report up to the day of the Committee meeting will also be brought to the attention of the Committee if it raises new and relevant material planning matters, this is referred to as late material. Papers received after that time at the discretion of the Chair will normally be discounted since time will not be available to check their accuracy or to give consideration to their implications.
- 2.4.5 If any member receives material from or on behalf of an applicant or third party in connection with an application before a Committee they should establish from the Planning Officers whether the material has been received by them. If it has not, they should make it available as soon as possible to the Planning Department.

3. Advice and guidance for Members

3.1 Calling applications to Committee

- 3.1.1 Where a Member believes, for reasons related to material planning considerations, an application should be referred to the Committee, they can, within 21 days of being notified of a valid application by way of the weekly application list, request the application be referred to the Committee by emailing the Case Officer. The email must clearly detail the reasons why the matter should be referred to the Committee. (N.B. Members, after discussing it with the Case Officer or Head of Planning, may also refer applications where there is a significant public interest in doing so)
- 3.1.2 When making referrals, Members are reminded that they are expected to attend the Committee meeting to present their reasons for referral. Members are expected to engage with Planning Officers to resolve issues at every stage and may query interpretations of Policy, and request extra detail.
- 3.1.3 Any Member can refer any application within the Borough to the Committee. However, where a Member seeks to refer an application for a site located outside of their own Ward, they should notify the relevant Ward Members of their request.
- 3.1.4 Requests for referral to the Planning Committee will be considered by the Chair or in their absence Vice Chair of the Committee, the Case Officer and the Head of Planning who will determine whether or not the application should proceed to Committee.
- 3.1.5 Except in circumstances where the Chair or in their absence the Vice Chair believes there to be exceptional circumstances, requests which are received outside of the 21 days or which do not contain valid Planning reasons may not be passed to



Committee. The final responsibility for the decision will lie with the Head of Planning.

- 3.1.6 A schedule of all requests, together with the reasons as to whether they were accepted or declined will be maintained by the Head of Planning.

3.2 Code of Conduct

- 3.2.1 Members should apply the rules in the Code of Members' Conduct first, which must always be complied with.

- 3.2.2 **Members should also** then apply the rules in this Planning Protocol, which supplements the Code of Members' Conduct for the purposes of planning control. Members who do not act in accordance with the Code of Conduct and this Protocol, may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision which may lead to that decision being quashed; and
- yourself at risk of either being named in a report made to the Audit, Compliance and Governance Committee, Council or the Local Government Ombudsman or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Monitoring Officer.

- 3.2.3 **If any member has a concern** in relation to potential breaches of the Code of Members' Conduct or this Planning Protocol they should raise it with the Monitoring Officer. Officers and Members at all levels of an organisation need to be prepared to speak up and challenge inappropriate behaviour where the authority's integrity is at risk.

3.3 Interests under the Code of Members' Conduct

- 3.3.1 Members must comply with the rules regarding the registration and disclosure of Interests as set out in the Members Code of Conduct. Members attention is specifically drawn to the following:

- **Do not** use your position improperly for personal gain or to advantage your friends or close associates.
- Keep your register of interests up-to-date
- Disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

- 3.3.2 Where you have a Disclosable Pecuniary Interest (as defined within the Member's Code of Conduct):

- Disclose the Disclosable Pecuniary Interest to the Committee, unless the Monitoring Officer considers it to be sensitive in nature
- Leave the meeting
- **Do not** vote on the matter, participate (or further participate) in the discussion of the matter unless a dispensation has been granted

3.3.3 Where you have an Other Interest you may attend the meeting for the purposes of making a representation however, you must:

- Disclose the Other Interest to the Committee
- Leave the meeting (once you have made your representation) and **do not** vote on the matter, participate (or further participate) in the discussion of the matter, if the matter affects:
 - your well-being or financial position;
 - the interest you hold that constitutes an Other Interest;
 - the well-being or financial position of a member of your family or a person with whom you have a close association;
 - a person with whom you, a close member of your family or a close associate have a contractual relationship; or
 - the determination of an application submitted by you, a close member of your family or a close associate; and a reasonable member of the public knowing the facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest

unless a dispensation has been granted.

3.3.4 You may apply to the Monitoring Officer for a dispensation. If granted, this will allow you to participate in a discussion and vote on a matter notwithstanding a Disclosable Pecuniary Interest or Other Interest as set out above.

3.3.5 Where a member is making an application for planning permission to the authority they should advise the notify the Monitoring Officer in writing no later than submission of the application.

3.3.6 Planning Applications made by members will always be reported to the Committee as a main item and not dealt with by officers under delegated powers.

3.4 Relationship with Officers

3.4.1 Members must not put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning or the relevant case officer, which may be incorporated into any committee report).

3.4.2 Members should recognise that officers are employed by the Council, not by individual Councillors. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each others positions. This relationship, and the trust which underpins it, should never be abused or compromised.

3.4.3 Members must recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

3.5 Engagement – contact with applicants, developers, supporters and objectors

3.5.1 Local authorities are encouraged to enter into pre-application discussions with potential applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public and especially objectors, as prejudicing the planning decision making process. In order to allay such perceptions, application discussions should take place within the clear guidelines given below.

3.5.2 Pre-application meetings with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They will normally only involve Officers. Members should not involve themselves in such meetings unless an appropriate Senior Officer is present. It will be made clear at pre-application meetings that:

- Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Development Plan and other adopted Council policy (unless there are clear material considerations that would justify consideration of a development contrary to policy;)
- no decisions may be made or advice given which would bind or otherwise compromise the Planning Committee of the Council (or the Senior Officer responsible for Planning if delegated to make the decision); and
- for all pre-application meetings, a note of the discussion (not a formal advice note) will be taken by the Planning Officer, including details of those present, and will be made available for public inspection, subject to the usual rules about access to information. At least one appropriate Planning Officer will be present at all such meetings.

3.5.3 You may, following discussion with the appropriate planning officer, take part in organised post submission meetings with applicants or other parties. A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. At least one Planning Officer will be

present at all such meetings, unless the meeting is a formal meeting of a Town or Parish Council (including its Planning Committee).

3.5.4 If you do engage in pre-application discussions with developers, observe the rules on lobbying and observe the do's and don'ts contained in Positive Engagement – A Guide for Planning Councillors (2008). In addition to the above members should also follow the following general advice:

- **Do** follow the rules on lobbying contained in this Protocol
- report to the Head of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.
- raise any issues upon which you think clarification is needed with the Head of Planning and / or the case officer for the application.
- forward any information received which the case officer may not already have so that all information is duly considered.

3.6 Lobbying

3.6.1 Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Members indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all of the relevant information (including the officer report) and views to hand would be unfair and would prejudice the impartiality of the decision making process. Although the Localism Act does allow a member to express a particular predisposed position.

3.6.2 Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, you will:

- avoid discussing with an applicant or any other person your thoughts about the merits and flaws of a planning application or proposed development;
- pass any written material provided to you to the case officer dealing with the application for inclusion and evaluation in their report;
- not make it known in advance of the consideration of the application by Committee whether you support or oppose a proposal unless you accept that this will mean that you may not take part in the decision;

- restrict your response to giving procedural advice, and make it clear that that is all you are prepared and allowed to do;
- direct lobbyists or objectors to the case officer and advise that their views should be expressed in writing, and
- advise the Senior Officer responsible for Planning as soon as possible of the existence of any substantial lobbying activity. Members should avoid signing any Petition on a matter likely to be determined by the Planning Committee. If you express publicly a final view on an application prior to the meeting at which a decision is to be taken, you will be required to withdraw from the meeting whilst the application is discussed and determined. Public expression of a view would include, for example, making a statement to the press of your firm attitude to an application, or in any document to be made publicly available, at a meeting of the Council or a Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

3.7 Predetermination and Predisposition

- 3.7.1 Members must consider each application on its merits and must not do anything which may preclude them from taking part in the determination process. You must only make your decision after reading the report, hearing the Officer's presentation and any points of clarification and all the arguments on both sides. If a member predetermines an application they will be precluded from taking part in the debate and vote.
- 3.7.2 It is acceptable to have a legitimate predisposition in relation to an application. A member who has expressed a preference for a particular outcome will not be taken to have a closed mind when making their decision, provided that a fair-minded observer would think that you were open to changing your mind in the light of different or additional information, advice or evidence presented.
- 3.7.3 A member may however be considered as predetermining an application if they have acted as an advocate for the application, including being significantly involved in the preparation or submission of the application or an active supporter or objector of the application. In any circumstance where a member is unclear they should consult the Monitoring Officer.

3.8 Planning Committee Members who serve on Parish or County Councils

- 3.8.1 Some Councillors will be Members of Parish Councils, or of Gloucestershire County Council (collectively 'Other Council'), as well as Cheltenham Borough Council Councillors. This situation can also present problems where the Other Council is consulted on planning applications. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report.

- 3.8.2 In order to avoid any potential conflict, it would be preferable for Councillors not to contribute to Other Council's considerations of development control matters. Members who do serve on Other Councils may find it helpful to make the following statement to clarify their position when regarding development control matters:

While I will consider this matter as a Member of this Council, I am also on the Planning Committee of Cheltenham Borough Council and may be called upon to vote on any application that this council responds to. In the light of additional information received, I may not vote at the Borough Council's Planning Committee as I will in this meeting.

3.9 Hospitality

- 3.9.1 As a Member of the Council you are discouraged from receiving hospitality generally but are expressly prohibited from receiving any gifts or hospitality from people with an interest in a planning proposal

4 Site visits

- 4.1 As part of the Councils process of fulfilling its duties of Planning Committee all Planning Committee members and substitutes are encouraged to take part in a monthly 'planning view'. This is a structured site visit organised by officers, and is an invaluable tool in the decision making process. Planning view provides members with an opportunity to view and enter application sites (and neighbouring sites where necessary) and also consider the surrounding context in advance of the Planning Committee meeting. In particular planning view offers the opportunity to:

- consider the impact of the proposed development if difficult to visualise from the plans and any supporting material, including photographs taken by officers
- more appropriately consider the comments of the applicant and objectors when these cannot be expressed adequately in writing

- 4.2 Planning view should only incorporate sites which members are justified in visiting on planning grounds, including:

- the character or appearance of the development itself is a fundamental planning consideration;
- a judgement is required on visual impact; or
- the setting and surroundings are fundamental to the determination or to the conditions being considered

4.3 Conduct of Visits

- Visits will be conducted in a formal manner

- The Chair or Vice-Chair will open the meeting, and advise members on the purpose and conduct;
- Officers will highlight issues relevant to the site inspection;
- When on site, members can ask questions or seek clarification on matters relevant to the site but it is not an opportunity to express opinions or views on the development proposed.
- No formal notes will be made of the visit, however a record of attendance and key planning Q&As will be captured and shared with the committee;
- No hospitality will be accepted

- 4.4 Members who have an interest in an application are precluded from attending any site visit on that matter. In addition if an interest becomes apparent during a site visit the member should immediately declare it to the chair and withdraw from the site.
- 4.5 It is important to ensure that planning view does not become an impromptu lobbying opportunity for the applicant or objectors. If members are approached on site by the applicant or third parties, you should advise that they may make representations in writing to the authority and then direct them to officers present. Members should not discuss applications with the applicant or third parties and should be aware of the provisions of the 'Lobbying of Councillors' section found elsewhere within this Code of Conduct.
- 4.6 Members should not enter a site which is subject to an application other than on planning view as this may give the impression of bias. If you do consider it essential to enter the site, or a neighbouring site, other than through planning view, please advise the Head of Planning of your intention to do so and the reasons why. If you do intend to conduct such a visit, again it is important to be aware of the provisions of the 'Lobbying of Councillors' section found elsewhere within this Code of Conduct.
- 4.7 Any such visit made outside of planning view will be recorded and should be declared by the member at the relevant Planning Committee

5 Public speaking at meetings

- 5.1 The purpose of permitting public speaking is to enable those affected by proposed developments to inform the Committee of their viewpoint and to contribute to an open, fair and transparent debate on applications in which they have an interest. All public speaking will be carried out in accordance with any guidance issued by the Council.
- 5.2 Guidance will be provided for members of the public who wish to speak at planning meetings and practical assistance will be provided for persons undertaking public speaking by Council officers at the meeting. All public speakers should provide a written copy of their speech to Democratic Services. Members of the public are

permitted to share slides, photographs etc provided that a copy is provided to Democratic Services upon registering to speak.

5.3 Public speaking is limited to five minutes per speaker. For each application the applicant/agent or one supporter will be permitted to speak together with one objector and one representative of the parish council.

5.4 Public speaking will take place in the following order:

1st – Objector

2nd – Applicant, Agent or Supporter

3rd – Parish Council

5.5 Upon conclusion of public speaking the Ward Member will be invited to speak for up to 5 minutes.

6 Decision making and the voting process

6.1 Members should only vote on an application if they have been present for the whole of the presentation of, and discussion on, the application.

6.2 Deferral of applications

6.2.1 Any member who wishes to move a motion seeking to defer an application before Committee must ensure that the reasons for their motion and any subsequent decision are recorded in the minutes of the meeting.

6.2.2 Decisions contrary to officer recommendations or to development plan policies:

Before making a decision which differs from the officer recommendation or the development plan, the Committee should take the following steps:

- Where possible, discuss the areas of difference and the reasons for that difference with officers beforehand;
- Record the detailed reasons as part of the mover's motion; and
- Where there is concern about the validity of those reasons, consider deferring to another meeting to have the putative reasons tested and discussed.

6.2.3 Before Members vote on a motion to determine an application contrary to officer recommendation, an officer should be given an opportunity to explain the implications of the contrary decision including an assessment of a likely appeal outcome and the chances of a successful award of costs against the authority should one be made.

6.2.4 If the Committee makes a decision contrary to officer recommendation or the development plan (whether for approval or refusal or changes to conditions or

planning obligations) a detailed minute of the Committee's reasons should be made. Members should be prepared to explain in full their planning reasons for the decision they are making. Pressure should never be put on officers to 'sort out the planning reasons' following the meeting.

7 Non Committee Members attendance at Committee Meetings

- 7.1 All members may attend meetings of the Council's Planning Committee even if they are not a member unless they have a Disclosable Pecuniary Interest. You may speak on applications in your ward in your capacity as the Ward Member before and/or after the debate but you cannot vote. When you attend any Planning Committee, you should not sit in the public gallery, but in the place reserved in the Council Chamber for Members of the Council who are not members of the Committee.

8 Training

- 8.1 A forward plan of a minimum of 3 training events for members will be organised annually. Planning Committee Members and anyone who may sit as a substitute will be required to attend a minimum of 2 training sessions each municipal year. Members who fail to attend the minimum training will be excluded from meetings of Planning Committee until appropriate training has been completed. This training will include a balance of the following:
- Organised visits to review permissions granted, providing an opportunity for both Members and Officers to reflect on the details of the completed schemes and consider lessons learned;
 - Topics of interest and or to consider issues in depth or where overturns have indicated problems with planning policy;
 - Formal training by external speakers;
- 8.2 New Planning Committee and substitute members must have attended initial induction training before they sit on the Planning Committee

9 Rules around certain types of application

9.1 Planning Applications from a Member or their relatives

- 9.1.1 All applications which are submitted by or on behalf of you as a Member of the Council in your private capacity or by a relative or your partner (as defined in the Code of Conduct for Members) or which relate to land which you own and/or have a beneficial interest in must be drawn to the attention of the Monitoring Officer, and will be reported to the Planning Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers.

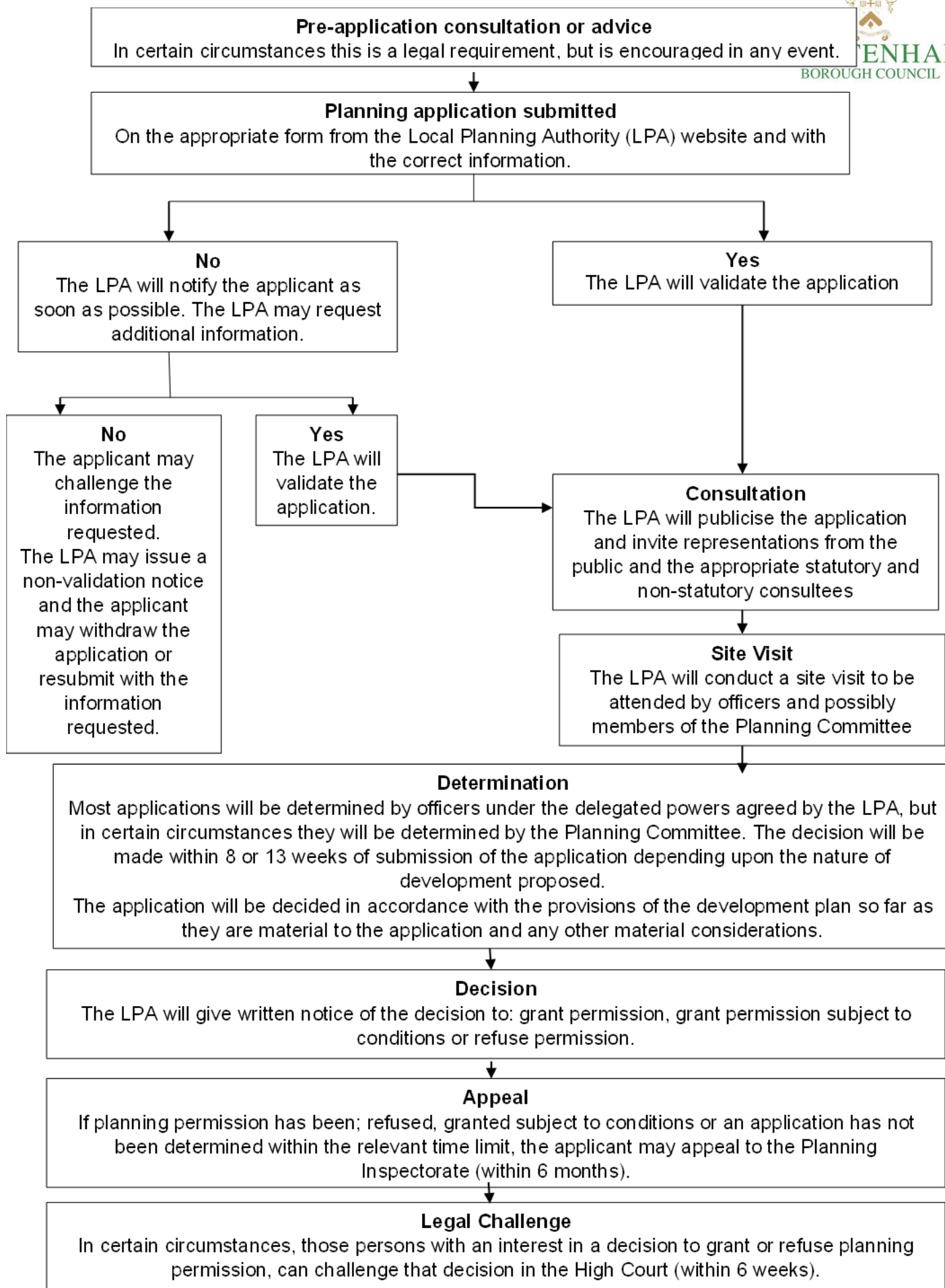
- 9.1.2 You must not speak in support of, or take part in the determination of, an application as described above.
- 9.1.3 You must declare an Interest and leave the meeting and not seek to influence any decision made. You may, however, appoint an agent who can speak, subject to the rules of Public Speaking at meetings of the Planning Committee.
- 9.1.4 If an application is submitted by a relative or partner (as defined in the Code of Conduct for Members) of a Member of the Borough Council, the Member should not speak in support of, or take part in the determination of, the application.
- 9.1.5 The applicant may speak at Committee meetings subject to the rules of Public Speaking at Meetings of Planning Committee or appoint an agent to speak on their behalf.

9.2 Planning Applications submitted by the Council itself

- 9.2.1 All applications which are submitted by the Council itself must be reported to the Planning Committee for a decision rather than being dealt with in accordance with the scheme of delegation to officers. However, once the principle of development has been established subsequent applications to discharge conditions or for minor variations may be determined in accordance with the scheme of delegation.

9.3 Applications submitted by Officers

- 9.3.1 An application submitted by or on behalf of an employee of the Council who is either an employee of the Planning Department or holds a politically restricted post will be reported for determination by the Committee.



This page is intentionally left blank

Part 5E – Licensing Code of Conduct

Cheltenham Borough Council

Licensing Committee

Probity in Licensing

**A guide to procedures and protocol for Councillors
and officers involved in making decisions on licensing
applications and other licensing matters**

Update by Council December 2023



Contents table

Introduction.....	3
Part one: Conduct of Councillors and Officers	5
A: Voting and Impartiality.....	5
B: Gifts and Hospitality	7
C: Independence and Impartiality of Licensing Officers.....	7
D: Declarations of Interest	8
E: Involvement of Councillors with Applicants	9
F: Council Licensing Applications.....	9
G: Lobbying of Councillors and Formal Submission of Information	10
H: Political decisions on licensing applications	11
I: Applications by Councillors, Officers or their relatives or friends.....	11
J: The Role of Ward Members	11
Part two: The Decision Making Process.....	13
A: Pre-application discussions and negotiations on submitted applications	13
B: Reports to Committee	14
C: The Committee Hearing	14
D: The Committee's decisions	16
E: Deferrals and committee site visits	17
F: Public attendance at committee meetings.....	17
Part three: Administrative Matters	19
A: Member Training.....	19
B: Record Keeping	19
C: Complaints	19
D: Further Advice.....	20



Introduction

Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way or more accurately it carries out an administrative function in determining contentious licensing applications and related matters. Most applications are free of objection and are determined under powers delegated to the relevant director. This Code is written having regard to the council's commitment to sound decision making, fairness, openness and consistency.

The Committee deals with most of the council's statutory licensing and registration responsibilities including: licensable activities under the Licensing Act 2003 (alcohol, regulated entertainment and late night refreshment); hackney carriages and private hire; sex establishments; gaming; charity collections; street trading; acupuncture, tattooing and ear piercing; pet shops; riding establishments; animal boarding; dog breeding; dangerous wild animals; zoos; and tables and chairs on the highway. The Committee hears major and contentious applications. Applications are referred for Members' consideration where they are contentious and/or objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant. Hackney carriage and private hire disciplinary matters are also dealt with by the Committee in accordance with the provisions of the council's hackney carriage and private hire licensing policy.

The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.

Some licensing legislation specifies procedures to be followed but in all cases **human rights and natural justice considerations** dictate that the Committee adheres to the following principles in that decisions **must**:-

- ❑ Be made on the individual merits of a case
- ❑ Have regard to all relevant national and local guidance
- ❑ Be made impartially and in good faith
- ❑ Be made by the body that receives all the relevant information and evidence
- ❑ Relate to the issue or question placed before the committee
- ❑ Be based only on consideration of relevant and material matters
- ❑ Be proportionate, rational and reasoned
- ❑ Be made in a way that engenders public confidence

The purpose of this local Code of Conduct is to set out in detail how Members should act and the procedures which should be followed to ensure that Members not only act in a fair and proper manner, but are also seen to do so.



This Code has been prepared with a particular emphasis on Members who serve on the council's Licensing Committee, but its content is also relevant to all other councillors and also to officers.

The Borough Council, along with all other local authorities, adopted a Code of Members' Conduct which specifies the obligations imposed on Members and defines 'Disclosable Pecuniary Interests' and 'Other Interests' and how these will affect the way a Member behaves. This Code of Conduct is the statutory base to which this Code of Practice is added. In some areas this Licensing Code of Conduct will extend, or go further than the Code of Members' Conduct. In the case of a conflict between the two the Code of Members' Conduct will take precedence.

It is possible that breaches of this Licensing Code of Conduct could be considered to be a breach of the Code of Members' Conduct.

This Licensing Code of Conduct (Probity in Licensing) is part of the council's constitution and can be viewed online at www.cheltenham.gov.uk.

Notes

1. All references to the Licensing Committee include any sub-committee of the Licensing Committee as appropriate.
2. All references to the applicant refer to the applicant (which includes a person calling for a review of a licence), the licensee or the applicant's or licensee's representative as appropriate.



Part one: Conduct of Councillors and Officers

A: Voting and Impartiality

- 1. Licensing Committee Members must act in the best interests of the Borough as a whole and must not act on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.**

The overriding duty of a committee Member is to the whole community, rather than just the people living in their ward. This is a fundamental principle of the local democratic system but is not universally known or regularly referred to.

- 2. Members of the licensing committee must not declare which way they intend to vote in advance of the consideration of an application by the committee.**

This can be a difficult issue for Members as they may be exposed to pressure from residents or the media to express a particular viewpoint. However it is essential that Members are measured and circumspect in the comments they make. If a Member declares which way they intend to vote it would in effect be pre-judging the application without having considered all of the relevant information. This could expose the council to the possibility of legal challenge or a charge of maladministration. Members must not make up their minds until they have read the relevant Committee reports and heard the evidence and arguments on both sides.

- 3. If a Member of the Licensing Committee declares support for or opposition to a proposal before the matter has been put before the Committee, the Member must make an open declaration of their views to the Committee and take no part in the consideration of and voting on that particular item.**

This rule follows on from item 2 above. It does not mean that Members cannot make a comment or reflect local concerns about a proposal before the Licensing Committee considers it. However the view or comment must not predetermine or be seen to predetermine the way that Member will vote.

Members must consider each case on its merits and must not do anything which may preclude them for taking part in the determination process. You must only make your decision after reading the report, hearing the Officer's presentation and any points of clarification and all the arguments on both sides.

It is acceptable to have a legitimate predisposition in relation to a matter. A member who has expressed a preference for a particular outcome will not be taken to have a closed mind when making their decision, provided that a fair-minded observer would think that you were open to changing your mind in the light of different or additional information, advice or evidence presented.

A member may however be considered as predetermining an application if they have been an active supporter or objector. In any circumstance where a member is unclear they should consult the Monitoring Officer.

A Licensing Committee Member with a predetermined view on a licensing application is disqualified from participating in the Committee's decision-making on the application.



4. Licensing committee members who are also members of a parish council must exercise particular care in reconciling their two roles.

This rule would apply in the case of a Member(s) holding office in both the borough council and a parish council. Such Member(s) may find that they are expected to express a view at a parish council meeting or vote on whether or not the parish should object or comment on a proposal from a parish point of view. In such circumstances Members are advised to abstain from both the debate and voting at the parish council. This is not inconsistency, but the consequence of having to fulfil two totally separate roles. If a Member does declare their support for or opposition to a licensing proposal at a parish meeting or elsewhere they must make an open declaration to the borough council's Licensing Committee to that effect and take no part in the voting and debate on that item, and leave the meeting.

5. Licensing Committee Members who are also county councillors must exercise particular care in reconciling their two roles.

There are often a number of Members that hold office in both the borough and county councils. As a general rule such Members should declare an interest in any applications either made by the county council or by third parties in relation to county council premises or land. When an interest is declared Members should withdraw from the meeting. This will ensure that the borough's licensing process is not unfairly influenced or perceived as being susceptible to unfair influence by a Councillor(s) who has two roles.

6. Licensing Committee Members should not organise support for or against a licensing application and should not lobby other licensing Councillors.

Committee Members should not place themselves in a position where they may give the impression that they had made up their mind before hearing the evidence. Each Member should make up his or her own mind on the evidence and facts presented to the Committee (see section G on lobbying). With regard to other Members it could give the impression that they were seeking to influence Committee Members (again see section G on lobbying). In addition, Committee Members who do campaign against any particular type of licensable activities that Parliament has determined are lawful such as alcohol sales or sex establishments, the Member must make an open declaration of their views to the Committee and should not sit on the Committee.

7. Licensing Committee Members must not favour or show bias against any particular person, company or group, or any particular site or locality in respect of licensing matters.

Furthermore, they should not put themselves in a position where they may appear to do so.

8. Confidentiality

There will often be occasions when licensing applications or other matters need to be treated as confidential items, resulting in the exclusion of the press and public..

Taxi driver applications and reviews of such licences are likely to include reference to personal information and sensitive information. Although there is a clear public interest in such matters, it must be remembered that it would not be appropriate to discuss fully and openly certain matters without prejudicing the subject of such a matter regardless of their likely culpability or otherwise.

The grounds why this may occur are set down in the Local Government Act 1972 and the council's constitution, and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details.

Information which is of a confidential nature may also be provided to Members before committee, but this should never be done without strong and compelling reasons, and any threat to the fairness of a hearing must be mitigated as far as possible through appropriate disclosure.

Members are expected to treat the information as confidential and are referred to the Code of Members' Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct and result in a complaint to the Monitoring Officer.

B: Gifts and Hospitality

1. Members and officers must abide by the council's policy on gifts and hospitality.

As a Member of the Council you are discouraged from receiving hospitality generally but are expressly prohibited from receiving any gifts or hospitality from people with an interest in a licensing matter.

C: Independence and Impartiality of Licensing Officers

1. Members or other officers within the council must not instruct nor lobby licensing officers to make or not to make a particular recommendation on a licensing application.

Licensing officers are trained to deal with licensing issues and will be aware of Government advice, case law etc., and will put forward professional advice. Officers from other departments will provide advice as appropriate.

2. Officers must always act impartially and advise the council of their professional opinion.

The Borough Council's Licensing Officers must always act impartially to give advice based upon a professional assessment of the individual merits of each case taking into account all relevant policies, guidance and other relevant material considerations. If they do not, or even if it appears that they are not, the integrity of the licensing process is severely compromised. Where an appeal has been made against a decision made against officer recommendation, officers will always present the council's case to the best of their ability.



D: Declarations of Interest

Members must comply with the rules regarding the registration and disclosure of Interests as set out in the Members Code of Conduct

Members attention is specifically drawn to the following:

- **Do not** use your position improperly for personal gain or to advantage your friends or close associates.
- Keep your register of interests up-to-date
- Disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

Where you have a Disclosable Pecuniary Interest (as defined within the Member's Code of Conduct):

- Disclose the Disclosable Pecuniary Interest to the Committee, unless the Monitoring Officer considers it to be sensitive in nature
- Leave the meeting
- **Do not** vote on the matter, participate (or further participate) in the discussion of the matter unless a dispensation has been granted

Where you have an Other Interest you may attend the meeting for the purposes of making a representation however, you must:

- Disclose the Other Interest to the Committee
- Leave the meeting (once you have made your representation) and **do not** vote on the matter, participate (or further participate) in the discussion of the matter, if the matter affects:
 - your well-being or financial position
 - the interest you hold that constitutes an Other Interest;
 - the well-being or financial position of a member of your family or a person with whom you have a close association;
 - a person with whom you, a close member of your family or a close associate have a contractual relationship; or
 - the determination of an application submitted by you, a close member of your family or a close associate; and a reasonable member of the public knowing the facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest

unless a dispensation has been granted.

You may apply to the Monitoring Officer for a dispensation. If granted, this will allow you to participate in a discussion and vote on a matter notwithstanding a Disclosable Pecuniary Interest or Other Interest as set out above

Where a member is making an Licensing application to the Council they should advise the notify the Monitoring Officer in writing no later than submission of the application.

Licensing Applications made by members will always be reported to the Committee as a main item and not dealt with by officers under delegated powers

E: Involvement of Councillors with Applicants

1. Members of the Licensing Committee should not act as agents, or submit licensing applications for other parties or voluntary bodies.

Any close involvement, or even perception of close involvement, can compromise the integrity of the licensing process. A Member acting as a licensing agent could give rise to suspicion that the Member was not impartial or may influence other Members in the decision making process.

2. Any Member who is a Licensing advisor or similar professional agent will not be appointed to the Licensing Committee.

Where Members need to submit licensing applications on their own behalf, or on behalf of their employer as part of their job, they must declare an interest and take no part in the processing of the application or in the decision making process. Decisions on any proposals submitted by or relating to premises / land / vehicle(s) etc. owned or controlled by a serving Member(s) should only be determined by the Licensing Committee (or the full Council). The Committee (or Council) alone should determine an application submitted by a Member's employer, irrespective of whether the Member is involved in the application, its preparation or submission.

F: Council Licensing Applications

1. Proposals to license the council's own land or premises must be dealt with the same as all other applications.

The council's own proposals, or those of others on council owned premises/ land, must be dealt with on exactly the same basis as applications submitted by any other applicant. Members must not have any regard to any other benefit, financial or otherwise, which may accrue to the council as a result of any particular decision on a licensing proposal.

All licensing applications, irrespective of the applicant, must be considered and dealt with on the merits of the application, not any extraneous gain or loss that might accrue to the council.



2. Other proposals that may have an impact on a council landholding or application/proposal must be dealt with strictly on their licensing merits.

Local authorities are often landowners. They may operate licensed premises and may submit their own applications or third parties may submit applications for new licensed premises on land or premises due to be sold to them by the council. Furthermore situations may arise where a licensing proposal may have an impact on the prospects and value of a council landholding or premises. These circumstances present special challenges to ensure that the licensing system operates, and is seen to operate, fairly.

G: Lobbying of Councillors and Formal Submission of Information

1. Any lobbying of Members must be dealt with carefully to minimise the perception of influence.

Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Members indicate or give the impression of support or opposition to a proposal or particular application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all of the relevant information (including the officer report) and views to hand would be unfair and would prejudice the impartiality of the decision making process. Although the Localism Act does allow a member to express a particular predisposed position.

Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Licensing Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, you will:

- avoid discussing with an applicant or any other person your thoughts about the merits and flaws of an application;
- pass any written material provided to you to the licensing officer dealing with the application for inclusion and evaluation in their report;
- not make it known in advance of the consideration of the application by Committee whether you support or oppose a proposal or application unless you accept that this will mean that you may not take part in the decision;
- restrict your response to giving procedural advice, and make it clear that that is all you are prepared and allowed to do;
- direct lobbyists or objectors to the licensing officer and advise that their views should be expressed in writing, and
- advise the licensing officer as soon as possible of the existence of any substantial lobbying activity.

Members should avoid signing any Petition on a matter likely to be determined by the Licensing Committee. If you express publicly a final view on an application prior to the meeting at which a decision is to be taken, you will be required to withdraw from the meeting whilst the application is discussed and determined. Public expression of a view would include, for example, making a statement to the press of your firm attitude to an application, or in any document to be made publicly available, at a meeting of the

Council or a Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

2. Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.

Only submissions from applicants, agents or objectors, which are formally received by licensing officers, can properly be taken into account in making a decision. The Committee could be materially misled if Members or other parties circulated ‘unofficial’ documents or introduced new information on behalf of an applicant or objector, or expressed what they believed to be an applicant’s intention, if this did not form part of the application documents and correspondence. In all circumstances copies of any letters, documents or correspondence should be given to the licensing officer to consider and comment on. Such material should always be provided at least 2 clear working days ahead of a committee meeting. Where fresh information comes to light after a committee report has been finalised and circulated it may only be tabled with the Chair’s consent.

H: Political decisions on licensing applications

Decisions on licensing applications must be made on the individual merits of each case with adherence to the other principles that are set out in this guide. The establishment of a party whip or “party lines” made in political group meetings prior to a committee meeting would be wholly inappropriate.

The view of the Local Government and Social Care Ombudsman is that ‘the use of political whips at group meetings is contrary to the National Code and amounts to maladministration’. It could also give rise to a legal challenge of any decision by Judicial Review.

I: Applications by Councillors, Officers or their relatives or friends

These applications must be dealt with, and be seen to be dealt with, openly, fairly and without any bias. Accordingly despite the scheme of delegation to officers to decide certain applications, all such applications will be reported to Committee.

J: The Role of Ward Members

1. Being a ward Member does not in itself constitute an interest in an application or create a risk of apparent bias. Providing the ward Member does not have a Disclosable Pecuniary Interest or any Other Interest in applications before the Committee or providing there is nothing to indicate any risk of bias or predetermination, a ward Member’s local knowledge may in fact give an additional insight to an application and its implications on the licensing objectives. Ward Members may use their local knowledge to ask relevant questions and clarify facts.
2. The right of ward Members to speak at Committee meetings may be constrained by statute. For example, under the Licensing Act 2003 ward Members may only speak if they have lodged a written relevant representation within the prescribed period of



time and/or to represent their constituents. In the absence of any specific rules, ward Members may be invited to address the Committee at the Chair's discretion.

3. The role of ward Members is, therefore, different from that of those Members making the decision, in that ward Members can engage with their constituents and make representations to the Committee on their behalf. It is for this reason, and to safeguard Members, that the restriction identified in Paragraph 2 above has been made.
4. The views of ward Members do carry weight with their colleagues who make the decisions. Ward Members should not become too closely identified with special interest groups and be careful to avoid pressure by applicants, objectors or supporters. There may be occasions where ward Members are invited to attend meetings (for example, a formal meeting called by an applicant or objector) where it would be prudent for a Member to also invite an officer to be present.



Part two: The Decision Making Process

A: Pre-application discussions and negotiations on submitted applications

1. Councillors should not, themselves, seek to advise applicants or agents about the likely acceptability of licensing proposals.

Pre-application discussions should always be undertaken by the council's officers to ensure that advice is given professionally, comprehensively and in a way that is clearly removed from the political forum. Licensing Committee Members should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. If Members, whether or not they sit on the Licensing Committee, do give an indication of their initial reaction to a proposal they must make clear that any proposals will need to be formally considered by officers and/or the Licensing Committee. They should also make clear that officers and/or the Licensing Committee could only make a final decision after a full and formal consideration of the proposal.

Similarly, Members should not normally be involved in negotiations and discussions about submitted applications. There may be exceptional circumstances in respect of major or contentious applications where there may be merit in Member involvement to explain a particular local viewpoint or issue. However, such discussions should take place only where at least one officer is present. The officer(s) will make a written record of any such meetings held and will place a copy on the application/premises file. Such a record will constitute a background paper for the purposes of the Freedom of Information Act 2000 and may be inspected by any interested person.

The fact that Committee Member(s) have discussed any such proposal with the applicant or objectors must be made clear when the application is before the Committee for determination. Under no circumstances should Members put pressure on officers to make, or change, any recommendations on an application.

2. Officers' role in processing licensing applications

The council employs professional officers whose job is to deal with the applications received, ensure the necessary publicity requirements are dealt with, negotiate with the applicant and/or their agents, and then report to Committee with their recommendations.

Officers will have pre-application discussions and/or issue guidance to help applicants to submit applications in accordance with council policies and to assist with the smooth processing of the application.

The officers will always put forward their professional view to Committee and be available to answer Members' questions.



B: Reports to Committee

- 1. Officers will provide written reports for all matters to be considered by the Licensing Committee (with the exception of matters of urgency) or when Committee has requested verbal updates on ongoing matters.**

There will be occasions when matters arise after the committee papers have been prepared and sent out, but a decision of Committee will be required. If possible a written report will be tabled, or if this is not possible the appropriate officer will provide a detailed verbal report on the issue, explaining why it is urgent and providing recommendations. This shall be minuted.

Members are also permitted to raise matters of urgency under the Local Government Act 1972. However if they do intend to do this the licensing officers should be informed prior to the meeting of the nature and content of the matter. Officers will attempt to answer any questions, but depending on the length of notice of the matter of urgency this may not be possible at that meeting.

Any matters of urgency can only be raised with the agreement of the Chair of the Licensing Committee who must give reasons as to why it is considered to be an urgent item.

- 2. Officer reports to the Licensing Committee will be accurate and will, subject to statutory requirements, comprehensively cover all relevant: i) policies, guidance, considerations and issues; ii) information about the application/case; and, iii) the views of consultees and objectors.**
- 3. In all cases applicants/licensees will be given the opportunity of providing written material for inclusion in the report. Material for inclusion must be received by the licensing officers at least 2 clear working days before the committee meeting. Where reliance is placed upon case law advance notice must be given of the case(s) in question.**
- 4. Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.**

C: The Committee Hearing

- 1. The Council's Constitution will apply to the conduct of business.**
- 2. Applicants/Licensees will be invited to attend the committee and be represented if they so choose, and they will be sent a full copy of the report about their application/case including all appendices and details of objections.**

If they do not attend the Committee can decide whether or not to deal with their item in their absence on the basis of the written report and the procedure as set out below.



3. Committee Procedure

- (a) Chair introduces the item on the Agenda, briefly stating what it is about and explaining the process to be followed at the hearing. The Chair will introduce all parties to the hearing. Where exempt information under the Local Government Act 1972 (as amended) is included in the report it will be written and circulated as a confidential item. In such cases the Chair will offer the licensee/representative(s) the opportunity of a public hearing and the press and public will only be excluded once a preference for a confidential hearing has been expressed.
- (b) The Chair will ask all Members, and council officers present whether they need to declare any interests in relation to the business on the agenda.
- (c) Members who intend to vote must be present in the meeting room throughout the committee's consideration of an item so that they hear all of the evidence and hear/participate in the debate.
- (d) Report author or other appropriate officer presents the report to the committee, outlining the key issues and background to the recommendation(s). Members, other persons and responsible authorities and the applicant/ licensee will have the opportunity of asking the officer questions.
- (e) The Chair will then invite officers from the responsible authorities or statutory bodies to amplify and/ or clarify comments that they have already submitted in writing or by email. The applicant/licensee (or their representative), objectors and or their spokesperson and Members are to be given the opportunity to ask questions.
- (f) Objectors and/or their spokesperson will be given the opportunity to make representations, this must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee, Members and officers, will have the opportunity of asking the objector or spokesperson (as applicable) questions.
- (g) The applicant/licensee (or their representative) will present their application/case and, if they choose, put forward witnesses. This must be done in a maximum of 10 minutes unless the Chair expressly approves otherwise. The applicant/licensee (or their representative) has the right to present their case without undue interruptions. When they have done so questions may be asked by Members, other persons and responsible authorities and by officers.
- (h) The objectors and/ or their spokespersons and officers from statutory bodies and the responsible authorities will be given a final right of reply.
- (i) The applicant/licensee (or their representative) will be given a final right of reply.
- (j) The Committee retires to debate the application and reaches its decision.
- (k) When the Committee has reached a decision, the Committee will return and will announce the decision. They will explain their findings, their consideration of the evidence and the weight they have given it and give clear and cogent reasons for their decision in public.
- (l) The Committee does reserve the right at the discretion of the Chair to adjourn to a later date within not more than 5 working days to determine a case, if it is unable to do so on the day of the hearing.



- (m) The decision will be confirmed in writing or by email giving reason(s) for the decision and details of any appeal rights. The decision notice/letter will be sent as soon as practicable after the meeting and any statutory timescales will be followed. This will usually be within 5 working days of the decision being made.
- (n) The following good practice rules assist the smooth operation of the Committee and promote probity:-
 - i. The meeting will be conducted without any undue formality
 - ii. Members should not report new information that they may have been given by applicants or third parties which has not been submitted to officers for formal consideration and comment (see rule on lobbying in Part 1 section G)
 - iii. Members should seek any necessary clarification from officers on key issues before the meeting as this enables full replies to be given
 - iv. Members should not introduce any non-licensing matters to the debate
 - v. Members should not speak at length on items where they are in full agreement with the officer report
 - vi. At the discretion of the Chair of the Committee a ward Councillor(s) may be allowed to speak at Committee to express their own views or those of their constituents. This discretion does not apply to any matter involving a notice or application under the Licensing Act 2003, as a party may only address the committee if they have submitted a relevant representation.
 - vii. Applicants, responsible authorities and other persons should only be permitted to amplify and clarify points that they have properly submitted in writing or by email. Where any party addresses the committee and goes beyond those constraints the Licensing Officer may draw this to the attention of the Chair and ask that the party be guided by the Chair to not stray beyond their written submission. The exception being where a party responds to new evidence adduced at the committee by another party, and only with the permission of the Chair.
 - viii. Where any party answers questions from another party or a Member and appears to go beyond their original representation and/ or repeats points that they have already made to the committee, the Licensing Officer may draw this to the attention of the Chair and ask that the party be guided by the Chair to not stray beyond their written submission, to not (continually) repeat points already made and to limit their answers to the question they have been asked. The exception being where a party responds to new evidence adduced at the committee by another party, and only with the permission of the Chair.

D: The Committee's decisions

- 1. Where Members propose to make a decision contrary to the existing policy or guidance clear and relevant reasons must be established and these must be minuted and included in the decision notice.**
- 2. The Chair will allow all the parties an opportunity to address the Committee before they retire to determine the application (in accordance with the procedure outlined above).**

Decisions must be reasoned, rational and in accordance with the facts of the case and have regard to the provisions of all relevant policies and guidance. However, decision making requires assessment and judgement of the weight to be attached to policies and guidance issues which, no matter how current, will never provide an answer for all applications. Any decision made by the Licensing Committee which is contrary to the provisions of existing policy or guidance must be clearly justified and recorded.

3. For certain applications that are particularly complex and/or contentious, Members of the licensing sub-committee has the discretion to defer the determination of the application in accordance with regulation 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

A deferment might be helpful for the licensing sub-committee to more fully consider particularly complex and/or contentious application and allow sufficient time to draft the decision notice(s).

Where Members wish to exercise this discretion, it should advise parties attending the hearing and must make a determination within five working days beginning with the day or the last day on which the hearing was held in accordance with the requirements set out in the hearing regulations.

E: Deferrals and committee site visits

1. Deferrals: Where Members propose to defer consideration of an application they must set out clear reasons for doing so and these will be minuted.

A proposal to defer any application must be valid and defensible. Justification for deferring a decision might be to ensure that all the proper consultation procedures have been followed, or to secure amendments, without which the application would have to be refused. The reason for deferring for a site visit must be clearly set out by the proposer and recorded in the Minutes. Deferring for the purpose of political expediency is never an acceptable course of action.

2. Site Visits: All site inspections whether involving Members individually or collectively will be conducted in a strictly fact-finding way and there shall be no on-site debate about the merits of the proposal or any negotiations or discussions with applicant, agents or residents.

A request for a site visit should be made two weeks in advance of any relevant Committee.

F: Public attendance at committee meetings

1. Most licensing applications (with the exception of new taxi driver applications or reviews of such licences) on the Committee agenda will be considered in public session.

Open public debate is a fundamental prerequisite of probity in the licensing system. However where exempt information under the Local Government Act 1972 (as



amended) is included in a report it will be circulated as a confidential item and, subject to the applicant/licensee's right to a public hearing (see Part Two Section C3 above) such items will be considered with press and public excluded.

Any person in attendance at the Licensing Committee meetings is entitled to make use of the public question time item to speak, however the question should be submitted in writing before the Committee. Applicants, interested parties, licensees or their agents will only be allowed to speak or make representations during consideration of their particular agenda item in accordance with (Part Two) section C above.

Any member of the public who disrupts the meeting in any way will not be allowed to remain in the room.

- 2. Members of the Committee should be extremely careful in meeting with and talking to applicants or objectors either before or after the meeting. This could give the impression that Members had either prejudged a particular application, or had supported a particular view without looking at, and taking into account all the facts presented by the officers.**



Part three: Administrative Matters

A: Member Training

- 1. Members who are exercising powers to determine applications are exercising an important function, in an area where there is a large amount of Government advice, case law and legislation. Members and substitute members must ensure they are adequately trained to carry out the task. Accordingly any Member or substitute member who is on the Licensing Committee must take part in training organised by the relevant director either before the first meeting of the Committee or within 3 months after being nominated to serve on the Committee, whichever is the earlier. If they do not, or cannot, they must step down.**

Members and substitute members are also encouraged to research pertinent issues by reference to the relevant director who can arrange access to publications, legislation, policy documents and guidance. Substitute members are also encouraged to attend meetings of the Committee from time to time to observe proceedings by way of a refresher.

Members and substitute members will be given regular updates and offered refresher courses to keep them informed of important changes in legislation, procedures or practices either orally, at training sessions, or as briefing notes.

B: Record Keeping

Officers will ensure that licensing application records contain sufficient information so that the reason for the ultimate decision can be understood by anyone who reads a file/record without a detailed knowledge of the application

C: Complaints

- 1. Any complaints received in writing about the way in which a licensing application or other licensing matter have been dealt with in terms of probity, procedures or fairness, will be investigated under the council's complaints procedure. However, the fact that someone may disagree with the decision reached in relation to a particular application or other matter is not a complaint which will necessitate investigation as such, although officers will always endeavour to explain the reasons for the council's decision.**

Where any complaint about a council decision made contrary to the existing policy or guidance is received, a copy will be forwarded to the Chair of the Committee.

Complaints can also be made to the Local Government Ombudsman regarding administrative maladministration, or to the Monitoring Officer regarding breaches of the Code of Members' Conduct.

D: Further Advice

This Code deals with the main issues of probity and conduct but cannot be expected to cover all eventualities that may arise. If Members are in any doubt about any probity related issue they are advised to contact the Monitoring Officer

PART 5

Codes and Protocols

Part 5F – Gifts and Hospitality

A Code of Conduct for Councillors

The acceptance of gifts and hospitality by councillors is not merely an administrative issue. It reflects directly upon the public perception of councillors and of the Council and can give rise to concerns as to whether councillors are acting in the public interest or for the personal advantage of themselves or their friends.

The law on the acceptance of gifts and hospitality is set out in the Code of Members' Conduct and in the Prevention of Corruption Acts. These requirements are then supplemented by the procedures which have been adopted by the Council to provide a clear set of rules for the protection of both councillors and the Council. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

This Code of Conduct sets out:

- (i) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (ii) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (iii) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council itself.

1. General Principles

In deciding whether it is proper to accept any gift or hospitality you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

- (a) **Never accept a gift or hospitality as an inducement or reward for anything you do as a councillor**

As a councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

A member should act in the public interest, serving the Council and the whole community rather than acting in the interests of any particular individual or section of the community and it is a breach of the Code of Members' Conduct improperly to confer any advantage or disadvantage on any person, including yourself.

(b) You should only accept a gift or hospitality if there is a reasonable likelihood that a commensurate benefit will accrue to the Council

The only proper reason for accepting any gift or hospitality is that there is a reasonable likelihood that a commensurate benefit would accrue to the Council which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch or to canvass the interests of the Council and its area at a meeting.

Acceptance of a gift is much less likely to confer such an advantage. Unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the Code of Members' Conduct provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the Council and to you as a councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or

organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination
- (iii) funding decisions, when the Council is determining a grant application by any person or organisation

(d) Never accept a gift or hospitality which puts you under an improper obligation

You should recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour.

Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

(e) Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2. Consent Regimes

(a) General consent provisions

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority

- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch not exceeding £25 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £25 a head
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the Council
- (viii) hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift,

pass it to the Personal Assistant to the Mayor together with a written statement identifying the information set out in Paragraphs 2(b) below. The Mayor's Personal Assistant will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

(b) Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. This does not, however, relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

3. Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information listed in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may choose to make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

4. Gifts to the Council

Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

5. Definitions

- (a) 'Gift or hospitality' includes any:
 - (i) the free gift of any goods or services

- (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
 - (iii) the opportunity to obtain any goods or services which are not available to the general public
 - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (b) References to the 'value' or 'cost' of any gift or hospitality are references to the higher of:
 - (i) your estimate of the cost to the person or organisation of providing the gift or consideration
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

This page is intentionally left blank

Part 5G – Protocol for Appointments to Outside Bodies

Contents table

1. Introduction	2
2. Appointments	2
3. General Provisions.....	3
4. Companies.....	3
5. Charities.....	6
6. Unincorporated Associations/Bodies	7
7. Other Public Bodies	8
8 Indemnities	8
9. The Members Code of Conduct.....	9
10. The Rule Against Bias and Predetermination	10
11. Reporting Arrangements	10
12. Further Advice	10

1. Introduction

- 1.1 Cheltenham Borough Council appoints people to sit on a number of outside bodies to represent the Council and to participate in their management and planning processes. A list of current outside bodies and appointments is available on the [website](#)
- 1.2 This protocol sets out the process for appointments to outside bodies and provides advice and guidance to members/officers so that they are fully aware of their obligations when representing the Council on outside bodies.
- 1.3 For the purposes of this protocol, "outside bodies" include: -
- Companies
 - Unincorporated associations
 - Charities
 - Other Public Authorities
- 1.4 This protocol does not offer guidance to members/officers who are representatives on school governing bodies.
- 1.5 This protocol is based upon legislation as well as guidance from a variety of sources, primarily: -
- The members Code of Conduct
 - The Local Government and Housing Act 1989
 - The Local Authorities (Companies) Order 1995
 - The Local Government Act 2000
 - The Local Government Association
- 1.6 The fundamental principles of this protocol are as follows:
- Members and officers will act according to the rules, constitutions and frameworks set by the relevant outside body and, where possible, with those of the Council.
 - Members and officers will make independent and personal judgements based on their duty of care to the outside body.
 - Members may be required to report back on their involvement with the outside body, to the Council – see paragraph 11.
 - Members will comply with their obligations as far as they are applicable pursuant to the Code of Conduct.
 - Members and officers will take an active and informed role in the management of the outside body's affairs.
 - Membership of an outside body does not include representing a political party.

2. Appointments

- 2.1 There are six types of appointments made to outside bodies:
- Those to which councillors are appointed as Trustees (Charities)
 - Those to which councillors are appointed as Non-Executive Directors (Companies)
 - Those to which the Leader is automatically appointed by virtue of their role as Leader of the Council

- Those to which the relevant Cabinet Member is appointed by virtue of their Cabinet Portfolio
- Joint Committees
- Outside Bodies to which members are appointed based on their interest in an area/topic and upon which they represent the Borough Council

- 2.2 With the exception of Joint Committees, where the appointment must be made by Full Council, the responsibility for appointments to outside bodies is with the Leader of the Council.
- 2.3 The Leader will consult with other political Group Leaders on the proposed appointments and in any case where consensus cannot be reached the appointment will be referred to Full Council.

3. General Provisions

- 3.1 There are some general provisions which apply to members and officers who act in the role of company director, charity trustee or member of an unincorporated body.
- 3.2 Members and officers are under a duty to exercise independent judgement in the interests of the organisation in which they are involved. Whilst it is recognised that members and officers may have a commitment to representing the Council on the Outside Body, they must be aware that it is their responsibility to decide on what view to take on any question before that organisation. For example, an instruction from the Council to vote one way or the other would put the member or officer in breach of his/her duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them without applying one's own judgement.
- 3.3 Where a member or officer is involved in an outside organisation as a representative of the Council, they must declare that fact to the organisation.
- 3.4 Members/Officers must also ensure that avoidable loss is not incurred in managing the organisation concerned. They cannot avoid this responsibility by not reading the papers or failing to ask for the appropriate report. They will be expected to seek professional advice as appropriate.
- 3.5 Members and officers who represent the Council in such circumstances need to familiarise themselves with the duties they will assume and any potential liabilities they may face. It is essential that they are aware of how to deal with any conflicts of interest that may arise and they need to be sure that the proper procedures have been followed in respect of appointments to the relevant organisation.

4. Companies

- 4.1 Companies can be:-
- Limited by shares, usually operating a trade or business. They have shareholders and distribute profits to shareholders as dividends.



- Limited by guarantee – or so called “not for profit” organisations, which have members rather than shareholders. This type of company may also be a charity.

- 4.2 Companies are separate legal entities which employ staff, enter into contracts and own land/property. The day to day business of a company is managed by its board of directors.
- 4.3 Companies offer limited liability. This means that the members or shareholders are usually not personally liable for the company’s debts and liabilities, subject to limited exceptions.
- 4.4 The powers of the directors are usually set out in the company’s Articles of Association. These are the rules that govern the internal management of the company.
- 4.5 The most important point to bear in mind for local authority appointed directors is that although the council makes the initial nomination or appointment, after appointment the director holds office according to the constitution of the company. Once an individual, whether officer or elected member, accepts an appointment as a director, they take on all the responsibilities of that position and their duty when acting as a director is to the company, not to their appointing council. They must therefore act in accordance with what they consider necessary to promote the success of the company.

4.5 Duties of a Company Director

4.5.1 As a Director you will have a number of specific duties including

To act in good faith and in the best interests of the company when making decisions as a director. This means exercising your own, independent judgement on matters and whilst factors such as the views and wishes of the Council or, if you are a Councillor, your political group, may be taken into account, one should avoid slavishly following the council or party group line without considering all other relevant considerations. When making decisions about the company the law also requires you to consider the interests of employees as well as the interests of members/shareholders. In certain cases you may find that the best interests of the company and the Council conflict (see paragraph 4.8).

- To exercise reasonable care and skill when making decisions as a director. A director requires no greater skill than might reasonably be expected of someone of that individual’s particular knowledge and experience. Directors are not deemed to be experts but they are expected to use due diligence and to obtain expert advice if necessary. This is very similar to the Member/Officer relationship in terms of decision making and the provision and consideration of professional advice.
- A fiduciary duty to act honestly and in good faith and in the best interests of the company as a whole.
- To act in accordance with the company’s memorandum and articles of association, plus any other rules, regulations or bylaws that the company may operate pursuant to. Members/Officers should ensure that they have an up to date copy of these documents and are aware of their contents.
- To inform the board of a company if you have any direct or indirect interest in a contract the company is considering, proposing or entering. This, for example, will include contracts between the company and the Council. These requirements are similar to those contained in the Code of Conduct governing the declaration of interests. In other words members must notify the other directors before the company makes a decision on the matter concerned and the member should not take part in any board discussions about the contract.



- Not to make a profit from their positions within the company. You must therefore declare any interests you have (or those of your family) in relation to the company's contracts. Permission to vote on a particular matter would depend on the articles of association.
- To comply with company law. Directors must ensure that the Companies Acts are complied with particularly in respect of the maintenance of accounts and the submission of statutory returns to the registrar of companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

4.6 Liabilities as a Director

4.6.1 Members/Officers acting as company directors may be held personally responsible for the company's debts and liabilities if they:-

- Engage in wrongful trading, i.e. if you knowingly permit the company to continue to trade or incur liabilities when you know or ought to have known that the company is unable to pay its debts. Accordingly, members/officers must ensure that they obtain regular information about the company's financial position. Advice on interpretation of financial information may be obtained from the company's chief financial officer or the Council itself. If you feel the company is unable to pay its debts you should notify the other directors as soon as possible. You should also consider whether to resign as a director. The Monitoring Officer will be able to advise you and you should seek their advice as soon as possible.
- Mis-apply or misuse the company's money or property.
- Fail to act in the best interests of the company or fail to act with the level of skill that could be reasonably expected of you, save and except where the Court is satisfied that you acted honestly and reasonably.
- Exceed the scope of any delegated authority you may have from the company. This is very similar to your position as a Member/Officer. Acting outside of the Council's powers can result in legal challenge.

4.6.2 If the number of Directors falls below 2 for more than six months or if you are sole director of a company you should notify the Monitoring Officer immediately as the Council will need to consider whether you should resign or whether the company should be wound up.

4.6.3 Failure to disclose a direct or indirect interest in a contract with the company could result in:-

- The imposition of a fine;
- The requirement to pay to the company any money you have received under the terms of the contract.

4.7 The Local Authorities (Companies) Order 1995

4.7.1 This Order sets out the rules concerning Councils' involvement in "regulated companies" which are subject to extensive controls.

4.7.2 Regulated companies are so defined if they are "controlled" or "influenced" by the Council. Influenced companies, under the effective control of the local authority, will be subject to capital finance regimes and special property controls.

4.7.3 Companies are local authority "influenced" if there is at least a 20% Council interest plus a business relationship with the company accounting for over 50% of the company's turnover

and/or the company is located on local authority land, leased or sold for less than the best price reasonably obtainable. Companies are local authority “controlled” if there is a local authority interest in excess of 50% and the minority interest is less than 20%.

4.7.4 In particular Regulated Companies are subject to the following requirements;

- Comply with limits placed on remuneration paid to Directors who are also members of an authority which is a shareholder;
- Ensure that Member Directors who become disqualified from membership of an authority are removed from the Board

4.8 Conflicts of Interest

4.8.1 Conflicts of interest may arise between the Council and a company. Even if the Council and the company have the same overall aims and objectives you cannot assume that their interests will always be the same. The legal position, and your obligations, remain the same even if the company has worthy objectives or is formed in response to a Council or government initiative.

4.8.2 Conflicts of interest may arise: -

- If the council is selling, donating or leasing land to the company.
- If the company and the council are negotiating a contract with each other.
- If the company is seeking funding from the council.
- If there is a dispute between the company and the council.
- If the company is tendering or negotiating to provide goods, services or works to the council.

4.8.3 Company law requires you to act in the best interests of the company but the Council will have nominated you as a director to represent or promote the Council’s interests. Accordingly, if you are uncertain whether a conflict of interest exists you should seek advice from the Monitoring Officer as soon as possible.

4.8.4 If you think you have a conflict of interest you should: -

- Notify the Monitoring Officer (and your Line Manager, if you are an officer);
- Notify the company’s board of directors,
- Take no further part in the matter on behalf of the company.
- If you are an officer you must take no part in the matter on behalf of the council either. This includes not taking part in any officer/member discussions on the matter or representing the council at meetings where the matter is discussed. You should declare an interest and leave the room whenever the matter is raised.

5. Charities

5.1 Charities may be created by using a governing document which is then registered with the Charity Commission. Governing documents can be: registering any of the following with the Charity Commission.

- A Constitution (for unincorporated association)
- A charitable incorporate organisation (CIO) foundation or association constitution (for CIOs)
- Memorandum and articles of association (for charitable companies)
- Trust deed or will (for trusts)



- 5.2 In order to qualify for a charitable status, the Commission must be satisfied that the organisation is operating for a charitable purpose. Further information on what makes a Charity is available here: [What makes a charity \(CC4\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/what-makes-a-charity)

5.3 **The Duties of a Charity Trustee**

5.3.1 Charity Trustees must:-

- Act strictly in accordance with the charity's constitution and rules.
- Act in the best interests of the charity.
- Manage the charity's affairs prudently
- Not derive any personal benefit or gain from the charity.
- Take proper professional advice on matters you are not competent to decide yourself.
- Ensure that the charity's bank accounts are operated by more than one person.
- Ensure the trustees have proper control of the charity's property and assets.
- Ensure that the charity keeps full and accurate accounting records.
- Spend charity income solely for the purposes set out in the charity's constitution.
- Ensure charity property is properly maintained and insured.

- 5.3.2 Further advice on the duties of Trustees is available here: [Charity Commission guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/charity-commission-guidance)

5.4 **Personal Liability**

5.4.1 Personal liability may be incurred if a trustee:

- Acts outside the scope of the trust deed
- Falls below the required standard of care
- Makes a personal profit from the trust assets

- 5.4.2 Personal liability to a third party may arise because a charitable trust, unlike a company, is not a separate legal entity.

6. **Unincorporated Associations/Bodies**

- 6.1 Organisations which are neither charities nor companies are referred to as unincorporated associations. They usually operate pursuant to a constitution or set of rules defining the organisation's responsibilities and those of its members.
- 6.2 The affairs of an unincorporated association are usually governed by a management committee in accordance with the organisation's constitution or agreed rules of procedure.
- 6.3 Unincorporated associations cannot do any of the following in their own name:
- Enter into contracts
 - Own land
 - Employ staff
- 6.4 Members of the organisation's management committee must act in accordance with its constitution and must take reasonable care in exercising the organisation's powers.
- 6.5 Generally, the members of the management committee are liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.



- 6.6 Members of a management committee will have personal liability if they act outside the authority given to them or if they do not comply with the relevant legal obligations.

6.7. Unincorporated Associations - Duties

- 6.7.1 As a matter of good practice members/officers appointed to represent the Council on an unincorporated association (body or organisation) must:
- Act in the best interests of the association
 - Use reasonable care and skill when involved in decision making on behalf of the association
 - Act in accordance with the association's rules or constitution.
- 6.7.2 Members/officers are therefore encouraged to:
- Clarify the extent of any limits to their power to act on behalf of the Council
 - Notify the Monitoring Officer if the association is proposing to take a course of action which is disadvantageous to the Council or which seems to involve considerable risk
 - Ensure the association has clear rules and procedures for decision making, particularly for entering into contracts.

7. Other Public Bodies

- 7.1 Some members will be appointed to other public authorities, for example the Police Authority. Like the Council, these bodies are created by statute and have a range of powers and duties.
- 7.2 Members appointed to the following public body's will be required to comply with that body's code of conduct:
- Office of the Police and Crime Commissioner (OPCC)
 - Fire and Rescue Authority

8 Indemnities

- 8.1 In the case of Outside Bodies that are not separate legal entities, the Council's Public and Employers liability policies extend to members and Officers provided that they are acting within the scope of their authority as representatives of the Council and are conducting activities approved by the Council. It is therefore essential that members and officers identify and clarify the extent of their individual responsibilities.
- 8.2 Outside Bodies that are legal entities in their own right (e.g. companies) must have appropriate insurance arrangements in place to indemnify the individuals concerned. It is therefore imperative that members and officers confirm that appropriate cover exists. If there is any doubt, advice should be obtained from the Monitoring Officer.
- 8.3 In the case of officers, an indemnity cannot extend to any deliberate wrong doing. In any event, an indemnity cannot cover an act which is outside the scope of an officer's employment or anything that is outside the legal powers of the Council.



9. The Members Code of Conduct

Duty to observe the Code

- 9.1 Members are obliged to observe the provisions of the Code whenever they conduct the business of the authority including when they act as a representative of the authority except and insofar as it conflicts with any other lawful obligations to which that body is subject. So the position is here is that a Member wouldn't be in breach of the Code in circumstances where they take action which would normally constitute a breach but they are legally obliged to act in that way as a result of their position within the outside body.
- 9.2 It isn't easy to imagine such circumstances but one example might be where an authority was proposing to take action which would have an extremely adverse effect on the financial wellbeing of a company on which a Member sat as a Director. If the Member was privy to the information concerning the authority's plans he may find himself in a position where he was compelled to disclose this potentially confidential information to the company due to his fiduciary duty to the company itself and duties arising under the companies act to avoid trading when insolvent. This is an extreme example but one which could feasibly arise.

9.3 Registration of Interests

- 9.3.1 A Member must regard themselves as having an 'Other' interest in any matter if the matter relates to an interest in respect of which notification must be given under Part V of the Code. Part V includes amongst other things the requirement that Members register their membership of or position of general control or management in any body to which they have been appointed or nominated by the authority as its representative.
- 9.3.2 So this means that where a Member is appointed to any outside body, they must, within 28 days, register this in the register of Member's interests and they must consider themselves as having an 'Other' interest in any matter which relates to that interest.
- 9.3.3 The Code requires that a Member with an 'Other' interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent. The Member may however remain in the room and vote on the matter unless they consider themselves to also have a Non-Registerable Interest.
- 9.3.4 In considering whether the Member has a Non-Registerable Interest the test is an objective one of whether a member of the public with knowledge of the relevant facts reasonably regard the interest as so significant that it is likely to prejudice the Member's judgement of the public interest. If the Member believes that such an interest exists they should leave the room and not take part in the vote.



10. The Rule Against Bias and Predetermination

- 10.1 The legal rule against bias is divided into two distinct limbs 'actual' bias and 'apparent' bias but the underlying basis of both is that where bodies act in ways which affect the rights of individual citizens the procedure must be fair and seen to be fair. The first limb concerns the situation where a decision maker has some direct personal or financial interest in a matter. The second element, which has been applied more regularly in the context of local government decision making, was addressed by the House of Lords in the case of *Porter v Magill* [2002] and Lord Hope laid down the following legal test for determining whether a decision was tainted by the appearance of bias.

"The question is whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased."

The test is an objective one in that it asks what the 'fair minded observer' would think as opposed to what the decision maker themselves might think.

- 10.2 There is line of cases which concern a species of bias commonly referred to as 'predetermination bias' which occurs where a decision maker has a closed mind to a matter or they have already made their decision prior to the meeting at which a decision should in fact be taken. This could arise where a director had expressed very clear support for something at a meeting of the board and then took part in a meeting of the council where the same matter was being considered.

11. Reporting Arrangements

- 11.1 Members who represent the Council on unincorporated outside bodies are required to submit a written report to either full council or Cabinet at least annually, on the activities of the organisation.
- 11.2 Officers who represent the Council on outside bodies are required to report to the relevant Portfolio Holder(s).
- 11.3 The purpose of the reporting arrangements is to ensure that members are fully informed of the activities of the outside body or organisation concerned, the nature of the organisation's activities and the impact of such activities on the local community and Council service delivery.
- 11.4 Frequency of reporting will be annual, unless exceptional circumstances require a further report. Reports will be submitted in writing by the Elected Member/Officer and, so far as is reasonably practicable, limited to one side of A4.

12. Further Advice

- 12.1 Advice on the application of this protocol should be sought from the Monitoring Officer.

PART 6

Members' Allowance Scheme

Introduction

Local authorities can pay their Members an allowance and expenses in respect of the duties they undertake in their role as Councillor. When setting or reviewing the allowances the council is required to commission a report from a panel consisting of people who are not Councillors and who are independent of the council. The panel is called an Independent Remuneration Panel (IRP) and it produces a report containing recommendations as to the level and nature of allowances and expenses. The allowances are reviewed by the IRP on an annual basis to ensure that keep pace with the cost of living and any changes in the roles Councillors undertake.

Cheltenham Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003 and having considered a report of its IRP, hereby makes the following scheme:

This scheme may be cited as the Cheltenham Borough Council Members' Allowances Scheme and shall have effect for the year commencing on 01 April 2017 and subsequent years.

In this scheme;

"Cabinet Member"	Means an elected Member who is a member of the Cabinet of Cheltenham Borough Council.
"the Council"	Means Cheltenham Borough Council.
"Councillor"	Means an elected Member of the Cheltenham Borough Council.
"Group Leader"	Means an elected Member appointed as such pursuant to the Local Government (Committees and Political Groups) Regulations 1990.
"Leader of the Council"	Means the elected Member appointed by the Council as its Leader.
"Member"	Means a person elected or co-opted into membership of Cheltenham Borough Council
"Municipal Year"	Means the period between one annual general meeting of the Council and the next.

1. Allowances Paid to Councillors

Each Councillor shall be paid a Basic Allowance of £6,844 per annum.

In addition to the payment of the Basic Allowance, Members undertaking special responsibilities shall be eligible for a Special Responsibility Allowance (SRA) as follows:

ROLE	ALLOWANCES
Councillor – Basic Allowance	6,844.35
Special Responsibility Allowances (SRAs)	
Leader	21,788
Deputy Leader	19,307
Cabinet Member	18,388
Chair of Planning Committee	5,363
Vice-Chair of Planning Committee	1,823
Chair of Licensing Committee	5,363
Vice-Chair of Licensing Committee	1,823
Chair of Overview & Scrutiny Committee	4,596
Vice-Chair of Overview & Scrutiny Committee	1,562
Chair of Cabinet Housing Committee	5,363
Vice-Chair of Cabinet Housing Committee	1,823
Chair of Audit, Compliance and Governance Committee	1,838
Chair of Appointments and Remuneration Committee	409
Group Leaders	816
Mayor (Chair of Council)	612
Mayor (Duties of Civic Head)	8,173
Deputy Mayor	1,634
Independent Remuneration Panel Members	250
Co-opted Members of Audit, Compliance and Governance Committee (includes Standards)	500
Co-opted Member of Overview and Scrutiny Committee	250
Tenant and Leaseholder Representatives on Cabinet Housing Committee	250

N.B. Only one SRA may be claimed by any one Member in respect of any period. Where a Member undertakes more than one special responsibility they are eligible for payment of the highest applicable SRA only.

2. Payment

The annual allowance payable to each Member shall be made in twelve equal instalments (as far as possible) paid on the 20th day of each

month or thereabouts subject to compliance with the part year payment provisions set out below.

3. Renunciation

A Member may by notice in writing given to the Head of Paid Service elect to forego any part of his/her entitlement to allowances payable under this scheme.

4. Part-year Entitlements

If the term of office or duties undertaken by a Member begin or end part way through a Municipal Year, or amendment of the scheme during a Municipal Year changes the amount to which a Member is entitled, then calculation of the allowance payable shall be on a pro-rata basis having regard to the proportion that the term of office, period of duty or relevant periods of the scheme bear to the Municipal Year in which they occur.

5. Suspension and Repayment of allowances

If a Member is suspended from acting as a Member of Cheltenham Borough Council, the Standards Committee may suspend in whole or part the allowances payable to that Member.

Where payment of any allowance has already been made in respect of any period during which a Member is:

- (a) suspended or partially suspended from acting as a Member;
- (b) ceases to be a member of the Council; or
- (c) is in any way not entitled to receive the allowance in respect of that period

the Council shall require the Member to repay the allowance.

6. Travel and Subsistence Payments

Payments covering travel costs shall be made to Councillors in respect of approved duties where those duties necessitate travel beyond the Cheltenham Borough Council boundaries. The full list of approved duties is set out in Schedule 1.

All claims for reimbursement of any travel costs should normally be submitted monthly and by no later than two months after the expenditure has been incurred, otherwise claims may not be paid unless agreed by the Head of Paid Service. Claims should be submitted to the Democratic Services on the Members Travel Claim Form and be supported by appropriate receipts, a VAT receipt where applicable, and/or supporting documentation for the claim in all cases.

Any claims must be authorised by the Democratic Services Team Leader before being submitted for payment. All claim forms must be with Human Resources by the 2nd of every month to enable payment to be made. Payments are made one month in arrears.

- Car rates; - for all engine sizes the rate payable should be the same as the Inland Revenue car mileage rate for all miles travelled on approved duties to destinations outside the boundaries of the Administrative Borough of Cheltenham (5 miles radius from the Town Centre).

For the avoidance of doubt for the purpose of calculating rates;

- All journeys are deemed to start from home and total miles can be claimed from home to the destination and the return journey. Auto-route planners should be used to support mileage claims.
- Motorcycle Rates; - 24 pence a mile subject to the same conditions as for cars; (this will be set at the Inland Revenue rate)
- Claims for car and motorcycle mileage need to be accompanied by a petrol VAT receipt
- Reasonable car parking fees can be reimbursed and receipts must be supplied with the claim.
- Bicycle Rates: 20 pence a mile for approved duties outside of the Borough of Cheltenham; (this will be set at the Inland Revenue Rate)
- Public Transport – members are encouraged to make use of public transport where available. Actual expenditure incurred supported by receipts/tickets for approved duties outside of the Borough of Cheltenham (save that first class travel on trains is not permitted and members are encouraged to order their tickets in advance to get the best deals via the internet or by request to the relevant officer);
- Public transport within the borough can also be claimed when travelling to approved duties outside of the borough subject to the requirement to use the most cost effective form of travel for all journeys.
- If a Member chooses a disproportionately expensive method of travel (when a more cost effective travel alternative is available) the council does reserve the right not to meet the excess expense.
- The use of taxis for business purposes can be an expensive form of travel. Members therefore should wherever possible use alternative less expensive methods of transport unless there is a good justification for using a taxi. Details should be supplied with the claim together with receipts. All of the above is subject to compliance with the council's required audit procedures and Financial Regulations as set out in the Council's Constitution.
- Passengers -where more than one person is travelling to the same destination on council business e.g. training courses, seminars or business meetings, cars are expected to be shared wherever possible. Drivers will be entitled to claim an additional 5p per mile for each passenger who is either an employee or an elected member of the council.

Subsistence payments are not available under this scheme.

7. Dependant Carers Allowance (DCA)

A Councillor may claim and receive a DCA where he/she has incurred expenditure on engaging a carer for a dependant in order to attend designated meetings and/or carry out approved duties subject to the following;

For an allowance to be payable the person being cared for must live with the Councillor as part of the Councillor's family, is unable to be left unsupervised and is either;

- a child under 16 years of age, or
- an elderly person, or
- a person with a physical or mental disability, or
- a person with a learning disability

A carer (i.e. the person being paid to act as carer while the Councillor is carrying out Cheltenham Borough Council duties) shall be defined as someone who does not normally live with the Councillor as part of the Councillor's family and is not part of the Councillor's extended family.

Subject to the above, DCA shall be payable for the actual cost of providing care, with no maximum amount, subject to compliance with audit procedures put in place by the Council.

8. Voluntary Repayment of Allowance due to Absence

In the event that a Councillor attends less than two-thirds of the total number of scheduled meetings of Council or of Cabinet or of Committees of which he/she is a member, the Councillor concerned shall be invited to pay back an appropriate percentage of his/her basic allowance up to a maximum of 25% of the basic allowance.

In the event that a Member is absent from Council business for more than one continuous month (other than on grounds of ill-health) the member concerned should be invited to pay back a sum equivalent to the amount of basic and special responsibility allowances paid for any single period of absence which exceeds one month.

9. Review of Allowances

Once in every four years the IRP will undertake a full review of the scheme which will consider all aspects of provision.

In the intervening years the Democratic Services Team Leader will consult with the Chair of IRP in September each year, to review the need for the panel to meet.

- If there are no significant issues to review, then the recommendation

to Council should be that all allowances should be increased by the same % increase proposed for staff in the following financial year.

- If there are significant issues then the panel be reconvened in September or October, to review the allowances and make any recommendations they feel appropriate.

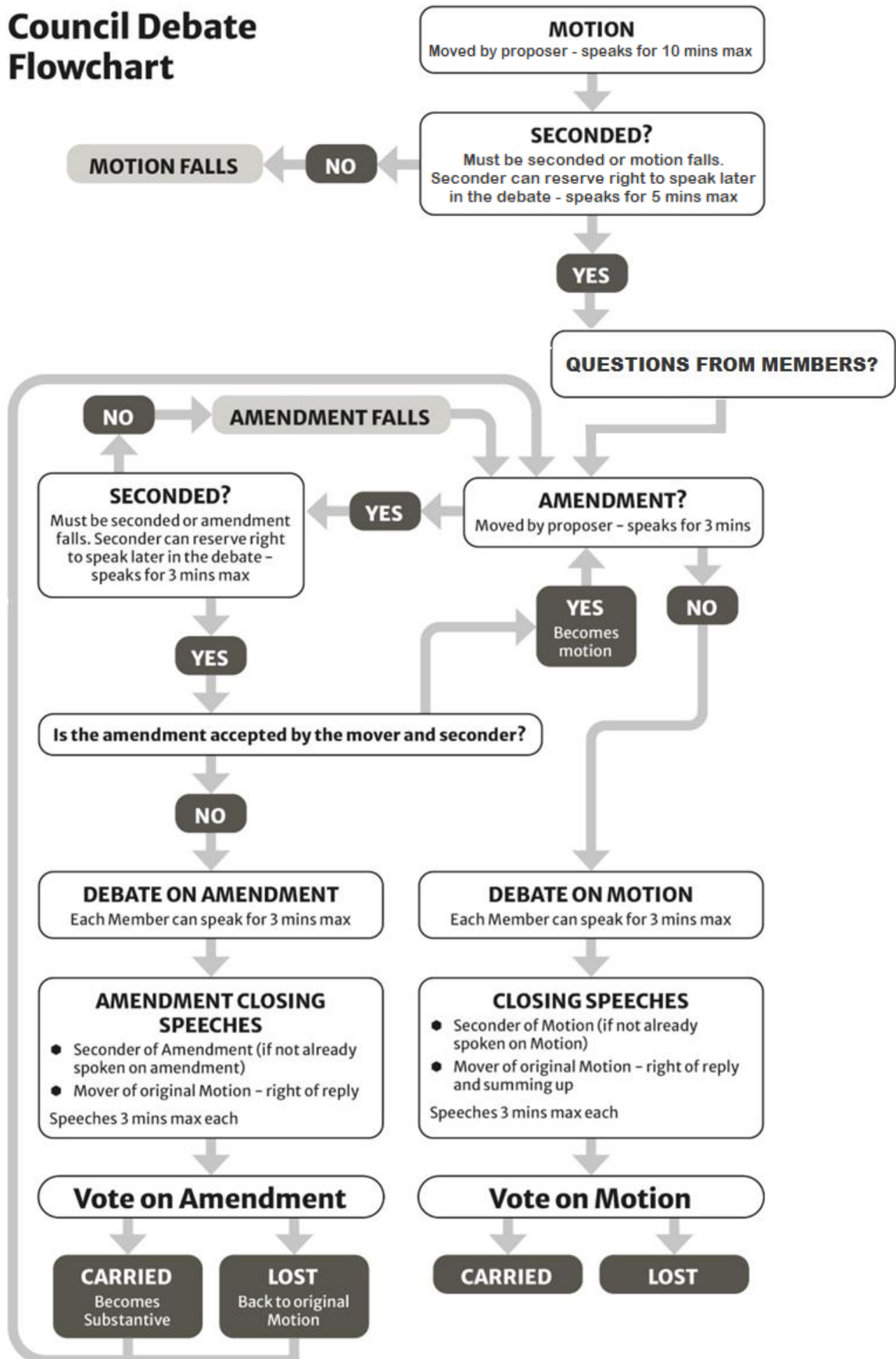
SCHEDULE 1

LIST OF APPROVED DUTIES FOR CHELTENHAM BOROUGH COUNCIL FOR PURPOSES OF TRAVEL AND DEPENDENT CARERS' CLAIMS

	<u>Attendance at any of the events listed below which require travel outside the borough:-</u>
1.	Formal meetings of the Council, including Committees and Sub Committees and any other authorised meeting of these bodies or event organised by these bodies (including joint committees), where the Councillor (a) has been appointed by Cheltenham Borough Council as a member, a substitute or representative or (b) is exercising a constitutional right to attend and /or to speak or (c) is attending in an observer capacity only;
2.	formal meetings of the Cabinet, its sub committees and any other authorised meetings thereof where the Councillor has (a) been appointed by the Leader/Council as a member or (b) is exercising a constitutional right to attend and/or to speak or (c) is attending in an observer capacity only;
3.	ad-hoc formally constituted working groups/panels (e.g. scrutiny task and finish groups) where the Councillor is (a) a named member of the body or (b) is formally invited to participate;
4.	meetings of Cheltenham Borough Council committees/sub committees where the Councillor has been appointed by the Council as a member or a representative;
5.	meetings of bodies to which the Council makes appointments except where the body itself pays allowances to the Council's representative (the approval relates to meetings of the body itself; its standing committees/sub committees but not to other activities of the body)
6.	meetings of any local authority association of which the Council is a member where the Councillor is the appointed representative or nominated substitute;
7.	any conference where attendance is authorised by the Council;
8.	any Council premises, or other agreed location, for a meeting agreed with either a member in receipt of an SRA or an Officer for the purpose of discussing matters relating to Council business in which it is reasonable to expect the Councillor to have an interest;
9.	briefing meetings at the invitation of an Officer of the Council provided that the members of at least two political groups have been invited;
10.	an approved agenda setting meeting organised by the council;
11.	meetings of Parish/Town Councils or equivalent community associations where the Councillor attends as the local district Councillor or as a representative of Cheltenham Borough Council and not as a member of the Parish/Town Council/Community Association itself;
12.	any civic or ceremonial event at the specific invitation of, or in support of, the Chair/Mayor of the Council;

13.	site visits by members of the Planning/Development Control Committee;
14.	any site visit or inspection visits undertaken by members approved by or on behalf of the Council;
15.	tender opening meetings where invited by an Officer to attend;
16.	a member development/awareness raising/seminar activity organised or approved by the council;
	<u>Performance of:-</u>
16.	duties carried out by a member holding an office for which a special responsibility allowance applies;
17.	any particular duty for which express authority is given by or on behalf of the Council in case of emergency;
18.	such other duty for which prior approval has been given by the Head of Paid Service or other authorised Officer, in consultation with the Leader.

Council Debate Flowchart



This page is intentionally left blank

Petition Scheme for Cheltenham Borough Council

Petitions

Anyone 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.

Petitions can be posted to **Democratic Services, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 6SA**, submitted via email to democratic.services@cheltenham.gov.uk, or created and submitted online through our [e-petition scheme](#).

If you would like to present your petition to the Cabinet or Council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on **01242 264246** or via email at least **3 working days** before the meeting.

The council welcomes petitions as a way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within **10 working days** of receipt, setting out what we plan to do. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition. Petitions received within an existing period of public consultation by the Council will be considered as part of that consultation.

Any petitions can be presented to a meeting of the Council or Cabinet. Council meetings take place 8 times per year and Cabinet meets monthly. Dates and times of meetings can be found at www.cheltenham.gov.uk.

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.
- the name, address and signature of any person supporting the petition. You are deemed to have 'signed' an e-petition if you have added your name and address.

Petitions should also be accompanied by contact details, including an address, for the petition organiser. The contact details of the petition organiser will **not** be placed on the website. 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. If such a person cannot easily be identified, the first signatory will be contacted instead.

Any person registered as a local government elector for the Borough may, in presenting a petition, speak about it for no more than five minutes. This is provided that they have delivered a written statement to Democratic Services at least **3 working days** before the meeting, as well as that the petition relates to a policy matter and is signed by at least ten local government electors for the Borough. If the Chief Executive considers the petition not to fall within the responsibilities of the Council, deals solely with business that relates to Confidential or Exempt Information, or is otherwise inappropriate, they will determine that the petition shall not be presented and notify the petitioner accordingly.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgment of the petition. In responding to a petition the council will also take into account the timeliness of the issue. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the

revised timescale which will apply. We do not accept a petition that relates to a decision of Council or a committee made in the previous six months and has been subject to public consultation.

How will the council respond to petitions?

An acknowledgement will be sent to the petition organiser within **10 working days** of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior Officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a public consultation
- holding a meeting with petitioners
- referring the petition for consideration by one of the council's scrutiny and review committees
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

If the petition applies to a planning or licensing application, is a statutory petition, or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available at www.cheltenham.gov.uk.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition, with personal details removed.

Specific subjects

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime or disorder linked to alcohol consumption, the council may among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to

	contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area and authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards at www.cheltenham.gov.uk.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as a licensing authority. For example, we may work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and Gloucestershire County Council Community Safety Scrutiny Committee to the issues highlighted in the petition.</p>
Under-performing health services	<p>We may work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LiNK) might have in reviewing and feeding back on the issue (the LiNK is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account). The health overview and scrutiny committee will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review.</p>

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example, if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible at www.cheltenham.gov.uk.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event, we will always notify you of the action we have taken.

Council debates

If your petition has received **750 signatures or more** it will also be scheduled for a council debate which will take place at a full Council meeting, unless it is a petition asking for a senior council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given **5 minutes** to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of **15 minutes**. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council's Executive is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision, which will also be published on our website.

Officer's evidence

Your petition may ask for a senior council Officer to give evidence at a public meeting about something for which the Officer is responsible as part of their job. For example, your petition may ask a senior council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

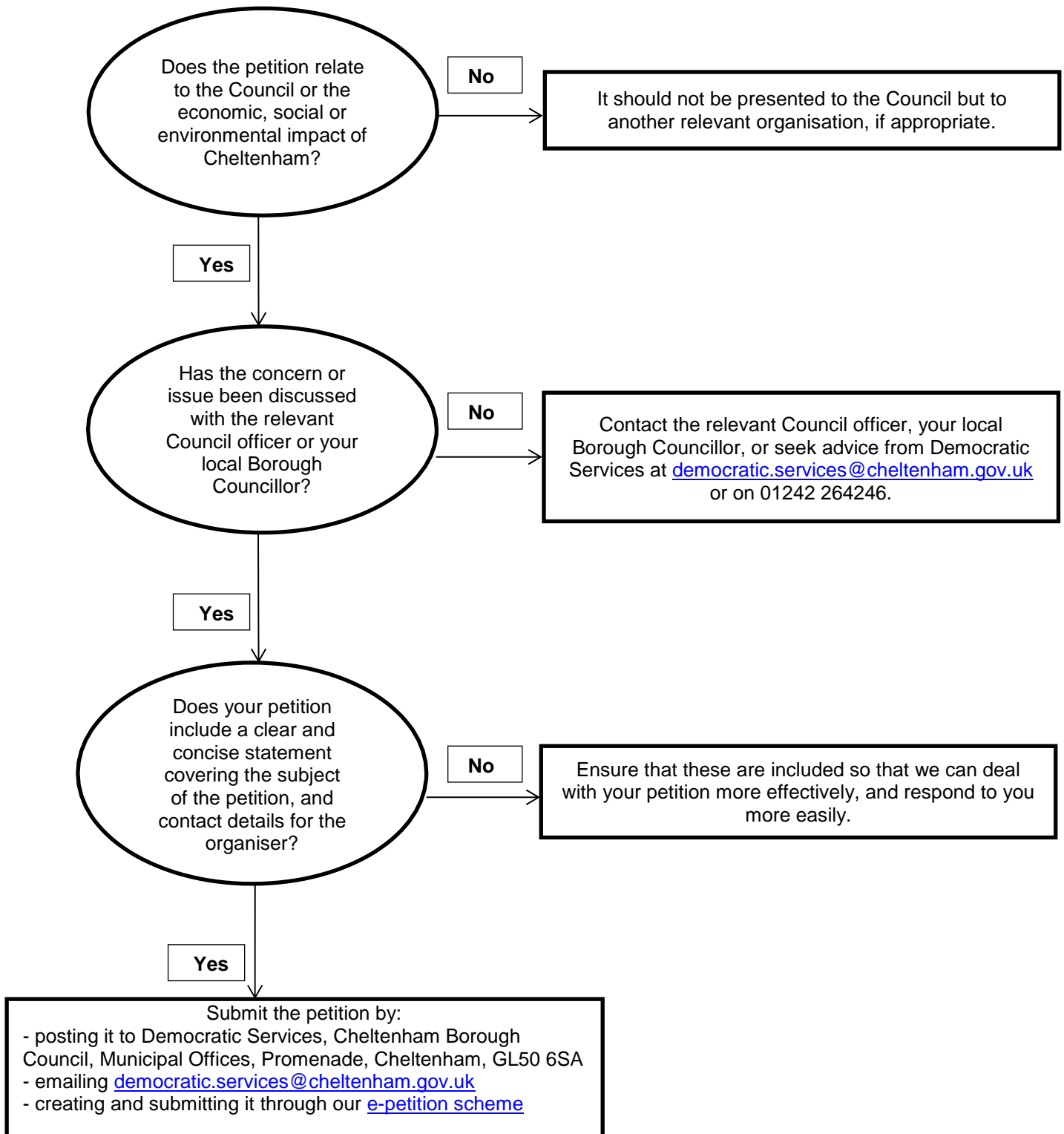
The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive and arranging for the matter to be considered at a meeting of the Council.

Once the appeal has been considered the petition organiser will be informed of the results within **5 working days**. The results of the review will also be published on our website.

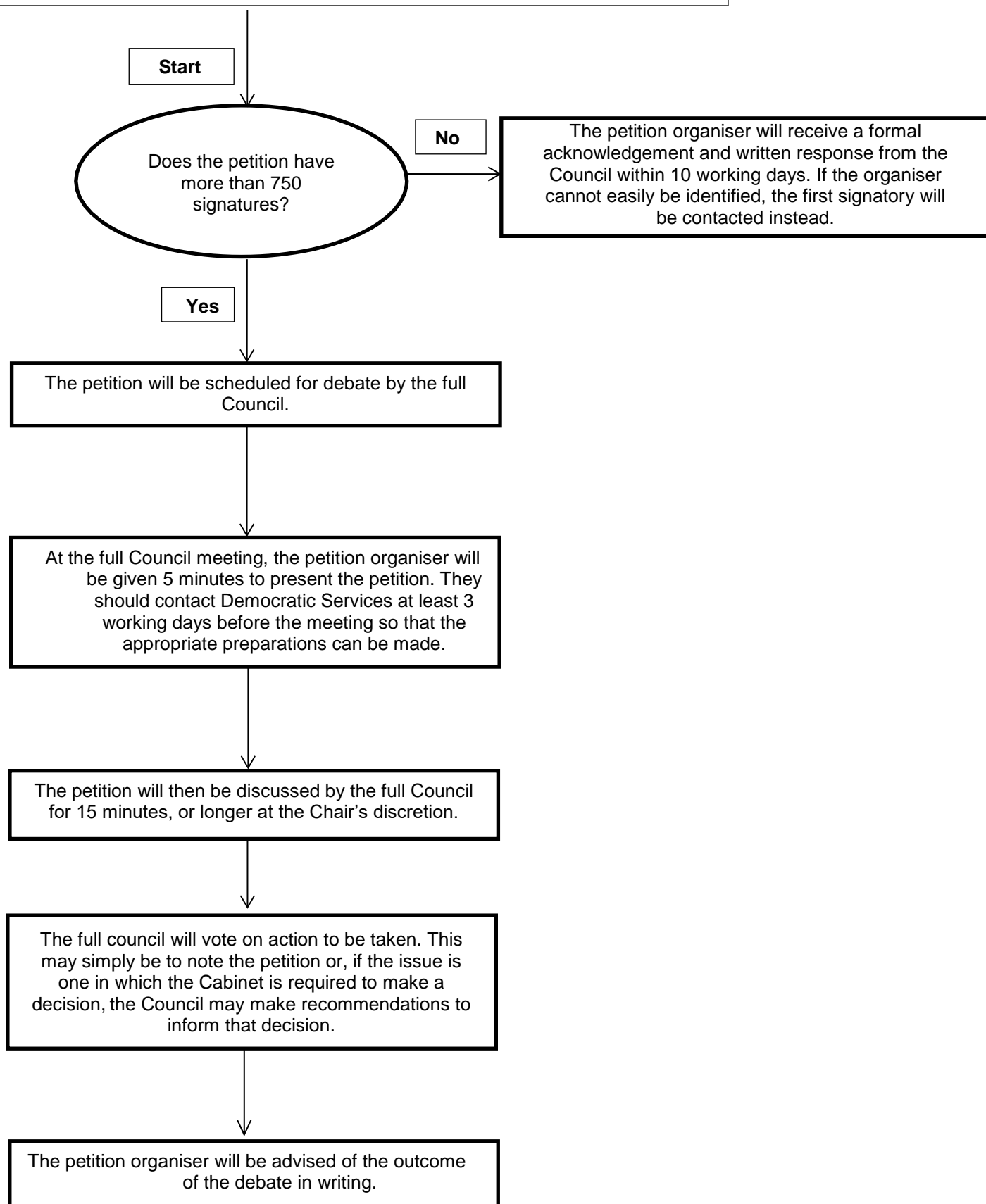
NOTE:

Under the new General Data Protection Regulations we are required to advise you why we collect your name and address. Please read our [privacy statement](#) for more information.

How do I submit a petition to the Council?



What happens after a petition has been submitted to the Council?



COUNCILLOR CALL FOR ACTION: GATEWAY PROCESS

1 Introduction

The Local Government and Public Involvement in Health Act 2007 introduced the Councillor Call for Action from 1 April 2009. This protocol sets out how elected Members of Cheltenham Borough Council can make use of this new power.

2 What is a Councillor call for action?

- 2.1 The prime aim of the Councillor Call for Action (CCfA) is to support elected Members in achieving improvements for their local areas. In their day to day roles Councillors identify issues of significant concern to their communities. They seek to resolve problems by talking to the council and other service providers. If they cannot resolve a particular issue they are now able to refer it to an Overview and Scrutiny Committee for further investigation.
- 2.2 The new legislation extends overview and scrutiny powers so that any Member of the Council (and not just a Member of the relevant committee) can refer matters to an Overview and Scrutiny Committee. The matters that can be referred may include those that the Council and its partners are delivering through the local area agreement.
- 2.3 The Police and Justice Act 2006 makes provision for a CCfA for crime and disorder and community safety issues. In practice, referrals made relating to these issues should be dealt with in the same way as other CCfAs by the Overview and Scrutiny Committee (or referred to the Gloucestershire County Council Environment Overview and Scrutiny Committee)

3 Outline of the process

- a) Councillor resolves the issue at a local level
- b) If this is not possible, the Councillor refers the issue to the Chief Executive who will send it to the Chair/Vice-Chair of the relevant Overview and Scrutiny Committee.
- c) Relevant Members, partners and Officers agree how the CCfA is to be handled.

- d) The CCfA is considered at the next scheduled meeting of the relevant Overview and Scrutiny Committee unless the Chair accepts that the matter needs to be considered urgently, in which case a special meeting of the committee will be arranged.
- e) The Overview and Scrutiny Committee agrees a resolution for the CCfA.

Each of these areas is discussed in more detail as follows.

4 Activity to resolve issue

- 4.1 Before referring a matter to overview and scrutiny it is important that Councillors make use of existing mechanisms. The emphasis is on Councillors resolving issues at an early stage by making use of existing local mechanisms.
- 4.2 Councillors will need to be able to demonstrate that they have taken reasonable steps to resolve the matter. **Annex 1** provides some guidance on the sorts of activity that it is expected that a Councillor will have undertaken before making a request to overview and scrutiny.

5 Referral to overview and scrutiny

- 5.1 If the Councillor is unable to resolve the matter, then they will be able to refer the matter to the relevant Overview and Scrutiny Committee.
- 5.2 Councillors will be expected to exercise some judgment over what is referred to overview and scrutiny. Issues that should be referred are those which have wider policy or strategic implications, are indicative of a broader issue or are particularly problematic.
- 5.3 If a Councillor is satisfied that they have a viable CCfA, they should complete the form included at **annex 2**. This formal notification should be sent to the Chief Executive with a copy to Democratic Services.
- 5.4 The Chair and Vice-Chair of the relevant Overview and Scrutiny Committee will consider the request and inform the Councillor whether they accept the CCfA. In the event of disagreement, the matter will be referred to the committee.
- 5.5 Reasons the Chair and Vice-Chair may not agree to take the CCfA forward to the committee could include:
 - Not enough information has been provided
 - More could be done to resolve the issue at a local level

- The CCfA is, or has stemmed from, a vexatious complaint
- The matter has recently been examined by overview and scrutiny
- The matter is the subject of an ombudsman complaint or other official complaints procedure.
- The matter falls under excluded matters. For example: planning, education and licensing appeals.

5.6 The Councillor has the opportunity to reply to the Chair/Vice-Chair with further information to substantiate the CCfA.

5.7 If the CCfA is accepted, the relevant Cabinet Members, senior Officers and partners will be notified by Democratic Services.

6 Determining how each CCfA is to be handled

6.1 To allow the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee to make an informed decision, it is suggested that they hold a meeting with the relevant Councillor to agree how the CCfA is to be handled. This meeting would be an opportunity for them to agree the key questions to be answered, the information required, who needs to be involved and the timescale.

6.2 Relevant partners, Cabinet Members and senior Officers should be involved in the CCfA at an early stage. It is necessary to get a balance between involvement to resolve issues at the earliest opportunity and not involving people unnecessarily.

6.3 It is also a critical part of the process in making sure that Councillors are fully aware of the roles, responsibilities and priorities of the organisations concerned. This should help to ensure that neither the public nor Councillors have unrealistic expectations of what can be achieved.

7 Role of the Overview and Scrutiny Committee

7.1 The Overview and Scrutiny Committee will hear from relevant witnesses, including the Member submitting the CCfA, and will determine the matter as follows:

- Write a report setting out the Committee's findings and recommendations
- Decide that it is a complex issue requiring further investigation and refer the matter to another body for more detailed scrutiny. This could

be another scrutiny committee or a task group set up specifically to look at a particular issue.

- Decide not to make a report. This might be because it is not considered to be the right time to consider a particular issue.

7.2 In any event (subject to the rules on confidential and exempt information) the outcome of the meeting will be published and details sent to the Member who submitted the CCfA, relevant Cabinet Members and partners.

7.3 Where Cabinet Members and partners are requested to take action to resolve a particular issue they will be asked to make a formal response to a future meeting of the Overview and Scrutiny Committee.

Examples of the steps which a Councillor could be expected to have taken before submitting a Councillor call for action to overview and scrutiny**1) The relevant complaints procedures have been complied with**

If the issue appears to be that a standard service has not been provided, or not provided to a sufficient standard, then the Councillor should check that the relevant complaints procedure has been used, and that the service provider has responded to the complaint.

2) The service manager has been approached

The issue may at its core be that local people feel that the standard service is not the right one for local conditions, and therefore the matter may be a question of making some slight adjustments at management's discretion. The Councillor would therefore be expected to have discussed the matter with the service manager in an attempt to secure the change. Again, this could apply across the range of partner agencies.

3) Relevant partnership bodies or local groups have been approached

It is more likely though that matters which merit a Councillor call for action are more complicated than the former examples. One likely possibility is that the matter requires attention from a number of agencies acting in partnership. The Councillor should in such cases demonstrate that local partnership bodies have had an opportunity to respond. In Gloucestershire, there are 18 Police Safer Community Teams that hold 55 neighbourhood co-ordination group meetings on a 2-3 monthly cycle. It may be appropriate for a Councillor to raise an issue at a meeting of the group that covers their local area.

4) The relevant Cabinet Members have been approached

The Councillor may come to the view that a pattern of conditions in the local area can only be addressed through a substantial policy change. In that case, the scrutiny committee will expect to see that the Councillor has approached the relevant Cabinet Members and at least given them a reasonable opportunity to respond.



CHEL TENHAM
BOROUGH COUNCIL

Councillor call for action request

To: Chief Executive
c/o Democratic Services

Date: _____

Summary of issue
and why it should
be raised with
Overview and
Scrutiny
committee: _____

Action taken
including list of
people and
organisations
already contacted _____

Key dates (if
relevant) _____

Signature: _____
Name (printed): _____

Continue on a separate sheet, if necessary

THE RULES RELATING TO THE ORDER OF PRECEDENCE OF MEMBERS

1. The Chief Executive (or the Monitoring Officer on his or her behalf) will maintain a list of all members showing their precedence in terms of:

- their service on Cheltenham Borough Council,

and this list will be referred to as “The Order of Precedence”. It is only of relevance in the determination of the succession of the posts of Mayor and Deputy Mayor.

2. To be eligible for consideration as Mayor a member must have had a minimum of four years service prior to taking up office.
3. To be eligible for consideration as Deputy Mayor a member must have had a minimum of three years service prior to taking up office.
4. The Deputy Mayor appointed to serve as such in a particular municipal year will be elected Mayor for the following municipal year provided he or she is willing, and remains eligible, to accept that office.
5. If the Deputy Mayor is unwilling or ineligible to accept nomination as Mayor, the nomination will be offered by the Chief Executive, following consultation with the Monitoring Officer, to members in accordance with The Order of Precedence until a member is able to accept the nomination.
6. Not later than 31st December in any year the Chief Executive (or the Monitoring Officer on his or her behalf) will approach the member at the head of The Order of Precedence (other than the Deputy Mayor) to ascertain if he or she is willing to accept nomination as Deputy Mayor for the next municipal year.
7. If the member approached by, or on behalf of, the Chief Executive is unwilling or unable to accept the nomination, the Chief Executive (or the Monitoring Officer on his or her behalf) will approach members in accordance with The Order of Precedence until a member is able to accept the nomination.

The Chief Executive will inform the Council of the member’s willingness to accept nomination at its first ordinary meeting in the new calendar year.

8. The fact that a member approached by, or on behalf of, the Chief Executive is unwilling or unable to accept nomination as Deputy Mayor for a particular municipal year, shall not prevent that member being approached again in accordance with The Order of Precedence.
9. Where members have equal periods of service, a member with unbroken service on Cheltenham Borough Council will take precedence over a member with broken service.
10. Members who have served the borough as Mayor will be moved to the bottom of the Order of Precedence and will only be considered for selection if no other member is interested in taking on the position of Deputy Mayor/Mayor or is eligible to do so.

11. The precedence between members who notwithstanding paragraph 9 have equal periods of service on Cheltenham Borough Council shall be decided by lot conducted prior to the first ordinary meeting of the Council following municipal elections.
12. Any questions arising as to the application of these rules shall be determined by the Chief Executive, following consultation with the Monitoring Officer, and in consultation with the Group Leaders.

A GUIDE TO RECORDING AND PUBLICATION OF OFFICER DECISIONS

1. Background

- 1.1 This document sets out the procedural framework to decision making and establishes a system to document decisions taken by Officers under delegated authority.
- 1.2 It has been updated to reflect new regulations introduced on 6 August under the Local Audit and Accountability Act 2014.

2. Types of Officer Decisions

- 2.1 An “executive decision” is one made in connection with the discharge of a function which is the responsibility of the executive, i.e. the Leader and Cabinet and which has been delegated to Officers
- 2.2 A “non executive decision” is one made in connection with the discharge of non-executive functions and which has been delegated to Officers.
- 2.3 The significance of decisions taken under delegated powers will vary, and Officers authorised to make delegated decisions will need to exercise judgement in determining whether decisions are significant enough to require formal recording in accordance with paragraph 2.6 below. Operational and Administrative Decisions although not required to be formally reported, must be recorded within the service area so as to provide an audit trail as referred to in paragraph 5.
- 2.4 Key Decision, Significant Decision and Urgent Decision are defined in Article 13.

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*

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*

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*

- 2.5 Officers do not, except where (1) they are specifically authorised by the Leader or Council/Committee, or (2) the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers, have authority to make Key Decisions or Significant Decisions.

2.6 The following types of Officer decision shall be formally recorded subject to the limitations set out:

Type of Officer Decision	Limitation
Executive or Non-Executive Decision for financial expenditure or financial saving of £10,000 or more.	The expenditure or saving has already been approved by Council/Committee/Cabinet/Cabinet Member and their decision has been published (in so far as possible without releasing Confidential or Exempt Information); or The expenditure or saving is already recorded and published under separate statutory requirements; or The decision is purely operational or administrative in nature.
Non-Executive Decision : (1) for the granting of a permission or licence or changing an individual's legal rights, (2) made under an express delegation from Council or Committee.	The date, details of and reasons for the decision are already required to be produced under a statutory requirement; or The decision is purely operational or administrative in nature.
Key Decision	
Significant Decision	

2.7 Officers should consider whether there may be consequential or longer term financial implications or risks arising from any decision they are to take. Therefore, in addition to the types of decision specified in paragraph 2.6, they should record decisions where the consequences or risks (financial or otherwise) for the Authority are likely to be significant.

3. The Process

- 3.1 Before taking any decision, the authorised Officer must take into account the principles of decision making set out in Article 13.2 of the Constitution.
- 3.2 Details of all proposed Key Decisions need to be published at least 28 days before the decision is made (unless the urgency procedure is applicable). At CBC we do this via the Council's Forward Plan which sets out matters to be considered by the Authority over the following four months and is continually updated. The Forward Plan also includes non-Key Decisions for completeness together with those non-executive decisions due to be taken by Council.
- 3.3 Where an Officer is able to make an urgent Key Decision (see 2.5 above) they must comply with the legal requirements set out in Part 4 of the Constitution (Access to Information Procedure Rules).

4. Call-in

- 4.1 Key Decisions made by Officers are subject to call-in by Overview and Scrutiny and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The call-in procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.
- 4.2 Although the formal call in process only applies to Officer Key Decisions, Overview & Scrutiny can call an Officer to account over any decision made.

5. Recording and Publishing the Decision

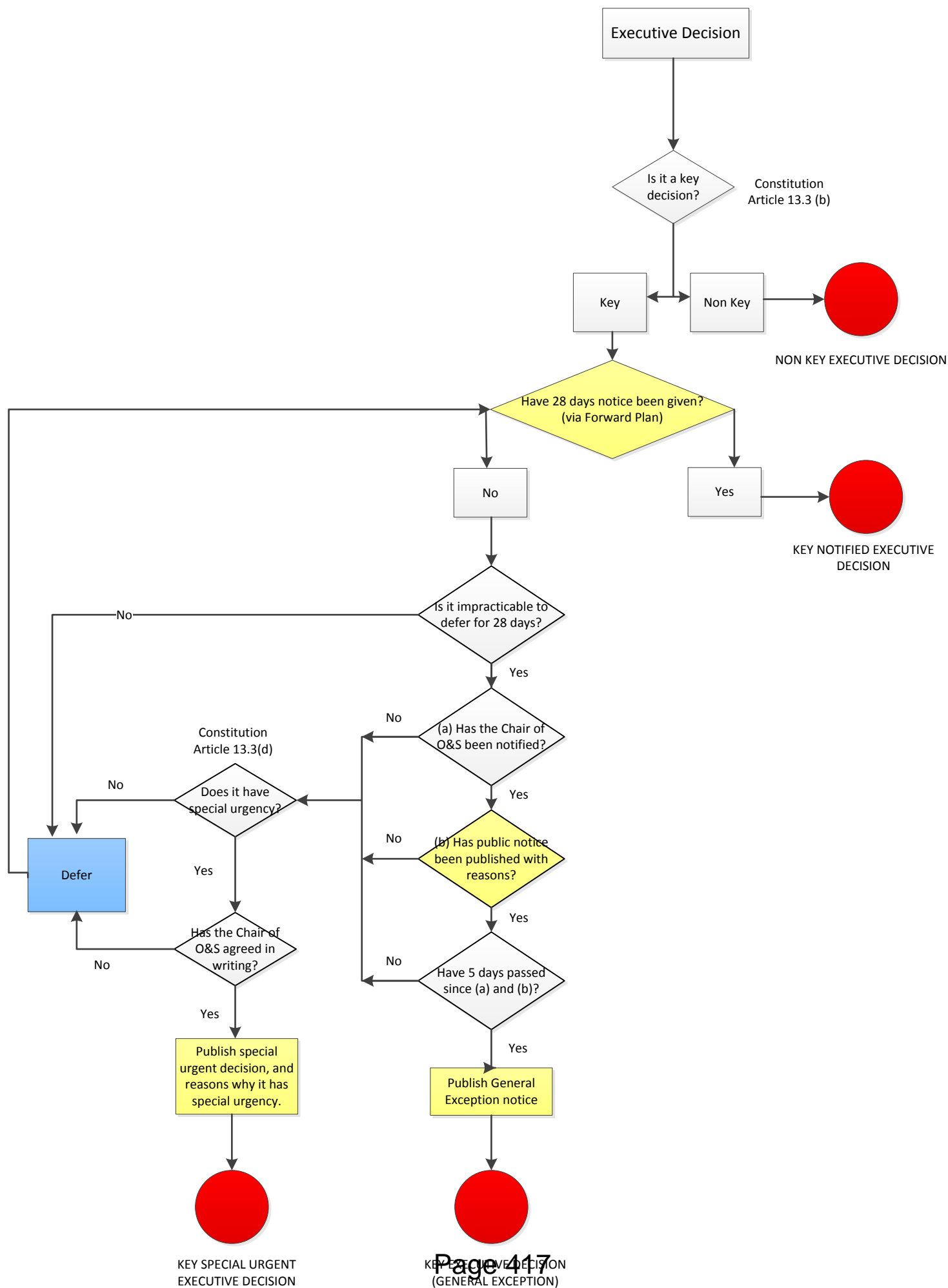
- 5.1 Relevant Officer decisions for publication are recorded in the same manner as Cabinet / Cabinet Member Decisions. The Officer must provide the Democratic Services Officer with a completed Officer/Cabinet Member Decision report form (available on the Council's intranet site) within two clear working days of the date of taking the decision. Any such forms must be copied to the relevant Director. The decision form will be accompanied by any relevant background papers, and, where appropriate (for example, in respect of a controversial or complex matter) a full report (based on the Cabinet report template)
- 5.2 Democratic Services will maintain a record of all decisions referred to in paragraphs 5.1, including any report upon which each decision was made and background papers. Subject to any requirement for confidentiality, they will ensure that this decision is available for public inspection via the modern.gov system on the website or at the Municipal offices or by post if requested on receipt of payment for copying and postage. A written record must be available for public inspection for at least 6 years and the background papers for at least 4 years.
- 5.3 It is essential that the contents of the Decision Form are clear in conveying the decision taken, i.e., it will not be sufficient to state that the recommendations in a report were agreed. The form and accompanying report must set out:
 - a record of the decision (including the date it was made);
 - the reasons for the decision;
 - details of any alternative options considered and rejected;
 - a record of any conflict of interest declared by any Cabinet Member consulted; and
 - in relation to any such declaration, a note of any dispensation granted by the Chief Executive

6. Consultation with Members

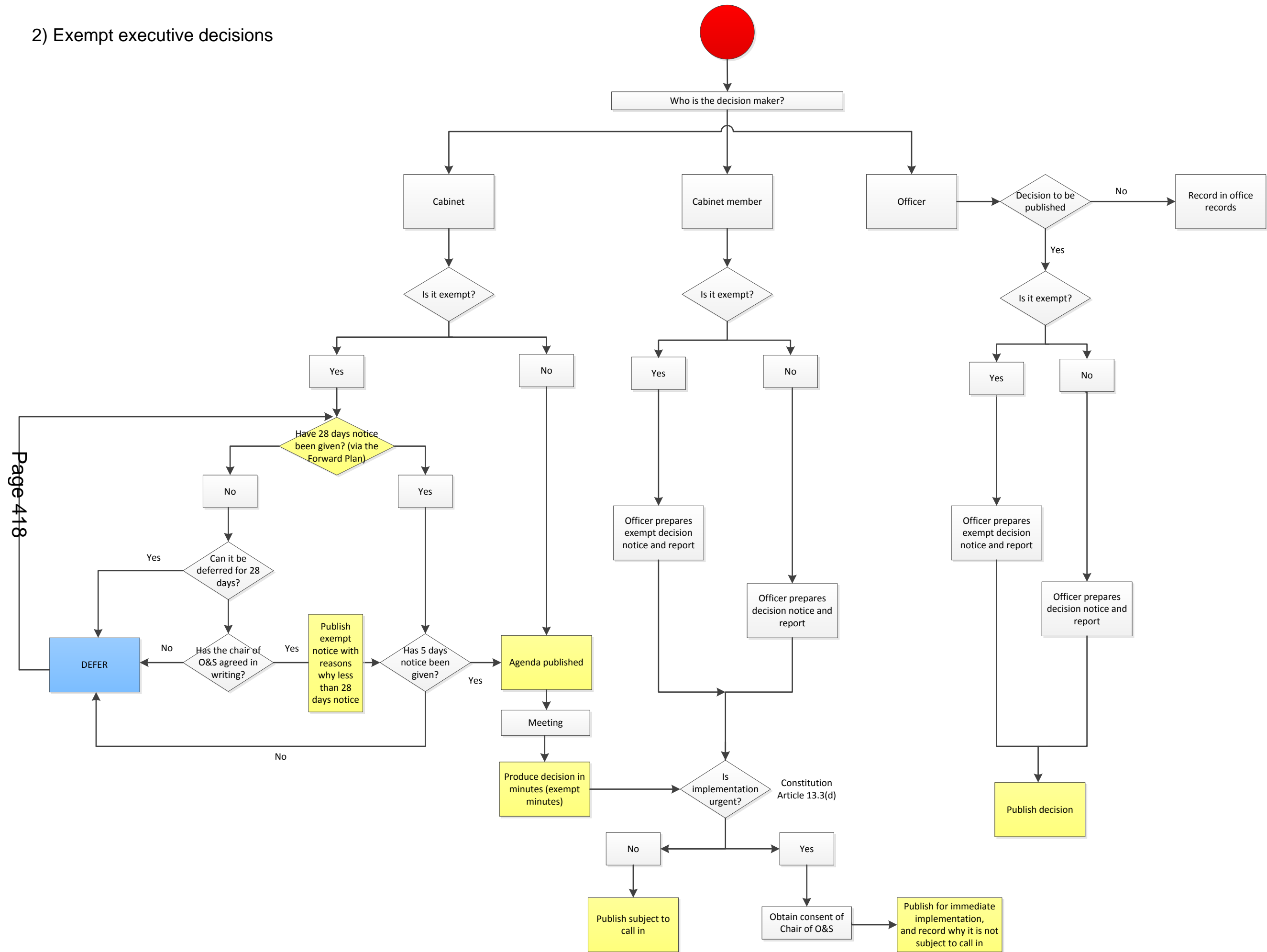
- 6.1 **Decisions by Officers following delegation from Cabinet**
Officers to whom decision-making powers have been delegated following a Cabinet decision, subject to consultation with Cabinet Members, will ensure that such consultation takes place.
- 6.2 **Other Decisions delegated to Officers**
 - a. Officers acting within the remit of their delegated powers within the Constitution will ensure that they identify, at an early stage, issues upon which Members should be consulted; and
 - b. Officers will ensure that appropriate consultation takes place.

This page is intentionally left blank

1) Executive decisions



2) Exempt executive decisions



Member Role Profiles

Member Role Profiles

Contents table

Elected Member (applies to all members).....	3
The Leader of the Council.....	5
Deputy Leader.....	7
Cabinet Member.....	8
Group Leader	9
Civic Mayor	10
Overview and Scrutiny Chair	11
Vice Chair of the Overview and Scrutiny Committee	13
Chair of a Regulatory Committee	14
Chair of Audit, Compliance and Governance Committee	15
Chair of Cabinet Housing Committee.....	16



Elected Member (applies to all members)

Responsible to: Cheltenham Borough Council and the local people

Role Purpose: To represent the views of their/their local community within and outside the Council.

Main Duties and Responsibilities

1. To represent the individual constituents within their Wards, undertaking casework on their behalf and serving all equally.
2. To liaise with the Leader of the Council, Cabinet members, other council members, officers and other service providers in ensuring that local community needs are considered and identified.
3. To be a channel of communication for the local communities about the decisions of Council and Council procedures.
4. Acting as community leader, to represent the views, aspirations and concerns of the people of Cheltenham as a whole, providing the focus for local democracy.
5. To participate in Council meetings to carry out the functions of Council meetings as set out in Article 4 of the Constitution.
6. To participate as a member of the Cabinet, committee, advisory panel/working group or other body to which the member is appointed.
7. If appointed, to represent the Council on outside organisations/bodies.
8. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with the relevant officers of the Council.
9. To develop and maintain a good knowledge of the corporate policies of the Council.
10. To uphold the Council's Constitution and to promote high ethical standards. To act in accordance with the Members' Code of Conduct and the Protocols as set out in the Council's Constitution.
11. To establish and maintain effective working relations with other members (including those who are members of different political groups).
12. To promote and enhance the Council's reputation through participating constructively in the governance of Cheltenham.
13. To undertake in a constructive manner such training and development as the Council, the Audit, Governance and Compliance Committee, member development group or the member's own group (if applicable) may recommend from time to time and to disseminate learning from attendance at conferences with their colleagues where appropriate, including feedback to all

members.

14. To be aware of and understand their duties in relation to the Council's statutory safeguarding and Prevent duties, including completion of mandatory safeguarding and Prevent training.
15. Show a commitment to Equality, Diversity and Inclusion at all times and operate within Council policy.
16. To ensure the safekeeping of any corporate ICT equipment allocated to them.
17. To have an awareness of their responsibilities under the Data Protection Act 2018 and to treat any data in accordance with the council's ICT and data security policies and in accordance with the requirements of the Members' code of conduct. To complete mandatory data protection and cyber security training.
18. To ensure that relevant health and safety responsibilities are taken into account when undertaking all aspects of the role.



The Leader of the Council

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To represent the aspirations of the people of Cheltenham and to provide overall strategic leadership to the Council.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To appoint the Cabinet and Deputy Leader.
2. To manage and lead the work of the Cabinet including deciding the scheme of delegation for Cabinet functions.
3. To lead on decision making and to make individual decisions in relation to Cabinet functions.
4. To work closely with other Cabinet members to ensure the development of effective Council policies, and the delivery of high-quality services (reflecting the principles of Best Value) to local people.
5. To represent the Council on Leadership Gloucestershire and on such other outside organisations they are appointed to, including the Local Government Association.
6. To act as shareholder for any companies which are owned by the Council
7. To lead the Cabinet's work in:
 - (a) providing strategic direction to the Council by identifying a vision, corporate objectives and priorities for services;
 - (b) providing a lead on the development of corporate policies and strategies;
 - (c) using the Council's objectives and priorities to drive the development of services and budget process;
 - (d) seeing continuous improvement by establishing the appropriate culture within the Council;
 - (e) monitoring performance;
 - (f) ensuring probity and financial monitoring;
 - (g) keeping under review the organisation and management processes of the Council, including the democratic structures; and
 - (h) developing, in consultation and partnership with others, a strategy for providing the social, economic and environmental well-being of the Borough of Cheltenham.

8. In consultation, with the Chief Executive, draw up a forward plan of Cabinet business and to keep it under review.
9. To liaise with the Chief Executive on a regular basis in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues.
10. To represent the Council at events which relate to the promotion of the business of the Council or Cheltenham.
11. To act as an ambassador for the Council:
 - (a) promoting its work and acting as its principal political spokesperson;
 - (b) participating in consultation;
 - (c) listening to, and taking account of, the views of organisations, the public and businesses; and
 - (d) representing the Council at all appropriate levels.
12. To appear before the Overview and Scrutiny Committee, or any task groups of the committee where required.
13. To liaise with the Group Leaders to ensure the effective and proper management of the Council's business in the best interests of local people.
14. To use their best endeavours to work constructively with the Group Leaders to ensure that the Council sets a lawful budget and adopts (and keeps under review) an appropriate policy framework.
15. To assist in the delivery of training and development as identified within the Members' Development Programme.
16. So far as it is an Executive function, to make (or delegate the making of) appointments to outside organisations.



Deputy Leader

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To deputise for the Leader of the Council and to be the Council's main representative and spokesperson on their nominated areas of responsibility.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To deputise for the Leader of the Council
2. To represent the Leader of the Council, as required (but excluding any roles in relation to civic and ceremonial functions).
3. To support and assist the Leader of the Council in managing and leading the work of the Cabinet.
4. To participate in the Cabinet in respect of all areas of collective decision-making with particular emphasis on any areas for which they have been given a particular responsibility by the Leader of the Council.
5. To act as the spokesperson and advocate for the Council in respect of any areas of responsibility assigned to them by the Leader of the Council.
6. To lead the development of the Council's policy framework within their area of responsibility and make recommendations to the Council.
7. To provide guidance to the Leader of the Council on the management and implementation of functions in relation to activities within their area of responsibility.
8. To give guidance to the Leader of the Council on budget priorities within their area of responsibility.
9. To monitor through appropriate officers the Council's performance within their area of responsibility.
10. To respond to reports of the Overview and Scrutiny Committee or its scrutiny task groups.
11. To appear before the Overview and Scrutiny Committee or its scrutiny task groups, as required.
12. To lead the process of continuous improvement and responsiveness of Council services within their area of responsibility.
13. To ensure that activities within their area of responsibility take proper account of the Council's vision, core values and guiding principles.
14. To represent the Council politically at national and local level, on outside organisations or in partnership with other agencies.



Cabinet Member

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To be the Council's main representative and spokesperson on their nominated areas of responsibility as appointed by the Leader of the Council.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To participate in the Cabinet in respect of all areas of collective decision-making with particular emphasis on any areas for which they have been given a particular responsibility by the Leader of the Council.
2. If required, to deputise for the Leader of the Council and/or Deputy Leader.
3. To act as the spokesperson and advocate for the Council in respect of any areas of responsibility assigned to them by the Leader of the Council.
4. To lead the development of the Council's policy framework within their areas of responsibility and make recommendations to the Leader of the Council.
5. To provide guidance to the Leader of the Council on the management and implementation of functions in relation to activities within their areas of responsibility.
6. To give guidance to the Leader of the Council on budget priorities within their areas of responsibility.
7. To sign off funding within their areas of responsibility and within the limits set out in the Constitution.
8. To take decisions in the areas of responsibility and as set out in the Constitution, taking into consideration all relevant facts, information and professional advice provided by officers.
9. If required, to assist the recruitment process for any Director level post.
10. To monitor through appropriate officers the Council's performance within their areas of responsibility.
11. To respond to reports of the Overview and Scrutiny Committee or its scrutiny task groups.
12. To appear before the Overview and Scrutiny Committee or its scrutiny task groups, as required.
13. To lead the process of continuous improvement and responsiveness of Council services within their areas of responsibility.
14. To ensure that activities within their areas of responsibility take proper account of the Council's vision, core values and guiding principles.
15. To represent the Council politically at national and local level, on outside organisations or in partnership with other agencies.

Group Leader

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To lead their political group and contribute to the effective and proper management of Council business.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To lead their political group in accordance with the law and the internal rules and procedures of that group.
2. To lead or facilitate the development of clear strategic priorities for their group and (if required) communicate these to the Chief Executive.
3. To use best endeavours to liaise with the Leader of the Council, the leaders of other political groups and the Chief Executive to ensure the effective and proper management of Council business.
4. To use best endeavours to work constructively with the Leader of the Council and other Group Leaders to ensure that the Council sets a lawful budget and adopts (and keeps under review) an appropriate policy framework.
5. By example (and by using all lawful powers available as group leader) to promote high ethical standards amongst the members of their political group and adherence to the Council's Protocols.
6. By example (and by using all lawful powers available as group leader) to encourage the members of their political group to participate constructively in such training as the Council or the Audit, Governance and Compliance Committee may recommend from time to time. To include assisting in the delivery of training and development as identified within the Members' Development Programme
7. To use best endeavours to resolve disputes between any member of their group with any other member (of any or no political group) or any officer in accordance with the Council's Codes and Protocols.

Civic Mayor

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To chair meetings of the Council and carry out traditional and civic and ceremonial duties of the Council.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

Chairing the Council meeting

1. To uphold and promote the purposes of the Constitution and in particular the Local Protocol for Civic and Ceremonial.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account.
4. To promote public involvement in the Council's activities.

Civic Role

5. To be the first citizen of the Borough and to take precedence as they deem appropriate and undertake such civic and ceremonial duties as they consider appropriate. (Note: the Deputy Civic Mayor or an appropriate ward or other Member shall act as the Civic Mayor's deputy in relation to civic and ceremonial functions at the Civic Mayor's request. The Leader of the Council (where invited by the event organiser) will also attend those civic and ceremonial events which promote the business of the Council and the town.) To conduct themselves in such a manner as prescribed in the Local Protocol for Civic and Ceremonial when undertaking civic and ceremonial duties.
6. To act as President of several local organisations including
 - Cheltenham Local History Society
 - The Arthritis and Rheumatism Council – Cheltenham branch
 - Royal National Lifeboat Institution
 - RELATE – Marriage Guidance
 - The Multiple Sclerosis Society
 - Cheltenham Sports Council
 - Cheltenham Civic Society – Honorary President
 - Vice President of the RSPCA
7. To nominate a charity or charities to support and identify committee members for the Charity Committee, who will assist in raising money through organising collections and special events

Deputy Civic Mayor

The Deputy Civic Mayor shall undertake the role and functions of the Civic Mayor in their absence or at their request.



Overview and Scrutiny Chair

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To co-ordinate and take a lead role in the effective overview and scrutiny of policies, budget, strategies, and service delivery within Cheltenham with a view to ensuring public accountability and continuous improvement.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To Chair meetings of the Overview and Scrutiny Committee, having particular regard to the Council's Overview and Scrutiny Standing Orders.
2. To ensure the work of the Overview and Scrutiny Committee (and any scrutiny task group it establishes) is conducted at all times in a positive, balanced, independent and non-partisan manner, and in the best interests of local people.
3. To ensure Overview and Scrutiny is an open, transparent process that informs, consults, and engages with local people, particularly traditionally excluded groups.
4. To establish a critical friend relationship with the Leader of the Council, Cabinet members, senior officers, and key partners.
5. Working closely with the nominated lead Director for Scrutiny, to lead the development and delivery of an annual overview and scrutiny work programme.
6. To ensure the effective operation of an overview and scrutiny function that:
 - (a) examines and reviews decisions made by, and the performance of, the Leader of the Council, members of the Cabinet, other appropriate committees, officers, and the Council's partners;
 - (b) questions the Leader of the Council, members of the Cabinet, other appropriate committees, senior officers, and partner organisations about their decisions and performance;
 - (c) assists in policy development and proposes evidence-based recommendations to relevant decision-makers;
 - (d) via the budget scrutiny working group process, assists, examines, and challenges the formulation of the Council's annual budget, and ensures the budget setting process is efficient and transparent and that outcomes accord with the Council's plans and priorities;
 - (e) reviews the performance of partnerships and other public bodies in the area, including requesting them to address the Overview and Scrutiny Committee and its scrutiny task groups;
 - (f) ensures adequate scrutiny of external reports on the Council's performance and that of its partners.
7. To be fully aware of the Council's Forward Plan and ensure that overview and scrutiny is able to consider all relevant issues within the timescale set.

8. To ensure that the call-in process is managed by the Overview and Scrutiny Committee.
9. To be responsible for the constitutional arrangements relating to the waiving of call-in where decisions are urgent.
10. To consult relevant decision makers in the preparation of overview and scrutiny reports and influence them to implement recommendations.
11. To ensure findings of overview and scrutiny are communicated to the Council, the Leader of the Council, partners, the press, and public as appropriate.
12. To ensure the Overview and Scrutiny Committee reports annually to Council.
13. To represent Cheltenham at regional and national forums concerned with overview and scrutiny.
14. To ensure the implementation of overview and scrutiny recommendations is monitored.
15. To arrange and attend such meetings of the Overview and Scrutiny Committee (and scrutiny task groups it establishes) as may be necessary for the effective and efficient operation of the overview and scrutiny function.
16. To support and motivate members in the overview and scrutiny process.
17. To develop and maintain a working knowledge of the practices, procedures, services, and functions that fall within the Overview and Scrutiny Committee's terms of reference.
18. To have an understanding and be aware of legislation that impacts on the Council.
19. To ensure overview and scrutiny have regard to overview and scrutiny good practice e.g. promoted by the Centre for Public Scrutiny.
20. To ensure member champions are invited to be contributors to any reviews that have a direct bearing on their interest, have an opportunity to contribute or comment on the overview and scrutiny work programme, and are engaged and consulted appropriately in the development of policy.
21. To keep the Overview and Scrutiny Chairs group briefed adequately on all relevant issues.



Vice Chair of the Overview and Scrutiny Committee

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To assist, support, and deputise for the Chair of Overview and Scrutiny

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. In the absence of the Overview and Scrutiny Chair, to chair meetings of the Overview and Scrutiny Committee, having particular regard to the Council's Overview and Scrutiny Standing Orders.
2. To assist and support the Overview and Scrutiny Chair in the delivery of their duties – as outlined the Overview and Scrutiny Chair's Role Profile above.
3. To attend, and in the absence of the Chair of Overview and Scrutiny arrange, such meetings of the Overview and Scrutiny Committee (and any scrutiny task groups it establishes) as may be necessary for the effective and efficient operation of the overview and scrutiny function.
4. To take responsibility for and to lead on specific issues which are within the remit of the Overview and Scrutiny Committee but not necessarily in the remit of a Scrutiny Chair, as delegated by the Overview and Scrutiny Chair.
5. To develop and maintain a working knowledge of the practices, procedures, services and functions that fall within the Overview and Scrutiny Committee's term of reference.
6. To have an understanding and be aware of legislation that impacts on the Council



Chair of a Regulatory Committee

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To ensure that the regulatory responsibilities of the Council are undertaken in accordance with the Council's policies and procedures.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To chair meetings of one of the regulatory committees in accordance with the relevant terms of reference and the Council's Standing Orders and Constitution.
2. To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the Committee.
3. To arrange proper consideration of the issues presented to the Committee and ensure that it has all the necessary information before it to make informed decisions.
4. To work with senior officers of the authority to set agendas for the Committee, acknowledging the legal and constitutional requirements around regulatory decision making.
5. To attend sit visits as required.
6. If appropriate, to represent the Council in all dealings with the public, media and other bodies in respect of regulatory matters.
7. To maintain awareness of national and local issues and regulations relating to the particular Committee.
8. To liaise with officers as to the training and development requirements for committee members.
9. Acknowledging the quasi-judicial operation of the committee, to ensure the committees act in the best interests of the borough in taking decisions in a non-partisan way and to ensure the codes of conduct in Planning and Licensing, as laid out in the constitution, are adhered to.



Chair of Audit, Compliance and Governance Committee

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To ensure that the regulatory responsibilities of the Council are undertaken in accordance with the Council's policies and procedures.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To chair meetings of the Audit, Compliance and Governance Committee in accordance with the relevant terms of reference and the Council's Standing Orders and Constitution.
2. To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the Committee.
3. To arrange proper consideration of the issues presented to the Committee and ensure that it has all the necessary information before it to make informed decisions.
4. If appropriate, to represent the Council in all dealings with the public, media and other bodies in respect of audit, compliance and governance matters.
5. To maintain awareness of national and local issues and regulations relating to the Audit, Compliance and Governance Committee.
6. To liaise with officers as to the training and development requirements for committee members.
7. To work with senior officers of the authority including the Chief Financial Officer and Head of Internal Audit (or equivalent), to agree the forward work programme and to set agendas for the Committee.
8. To lead the Committee in its role in reviewing and assessing the Governance, Risk Management and Control of the authority
9. To lead the Committee in its role in reviewing and scrutinising the authority's financial affairs
10. To lead the committee in its role in contributing to the effective performance of the authority.
11. To oversee the authority's internal and external audit arrangements and work with internal and external auditors
12. To review the financial statements prepared by the authority and approve them when powers are delegated



Chair of Cabinet Housing Committee

Responsible to: Cheltenham Borough Council and local people.

Role Purpose: To ensure that the housing regulatory responsibilities of the Council are undertaken in accordance with the Council's policies and procedures.

Main Duties and Responsibilities – *in addition to those duties of all elected members*

1. To chair meetings of the Cabinet Housing Committee in accordance with the relevant terms of reference and the Council's Standing Orders and Constitution.
2. To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the Committee.
3. To arrange proper consideration of the issues presented to the Committee and ensure that it has all the necessary information before it to make informed decisions.
4. To refer matters to cabinet for decision or action as required.
5. To represent tenants and leaseholders and ensure that they live in safe, high quality homes.
6. To represent the Council during inspections from the Regulator of Social Housing.
7. To maintain awareness of national and local issues and regulations relating to Housing.
8. To liaise with officers as to the training and development requirements for committee members.
9. To lead the Committee in its role in reviewing, assessing and understanding the council's management of its housing stock, including property compliance and health and safety.
10. To lead the Committee in its role in monitoring performance and delivery of the consumer standard including the new tenancy satisfaction measures.
11. To lead the Committee in its consideration of complaints data.
12. To provide strong and effective connectivity between the Council and the Tenant and Leaseholder Panels.

Exempt Information

Under Section 100A(4) Local Government Act 1972 the public can be excluded from a meeting where it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in one or more of the following paragraphs, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1; Information relating to any individual.

Paragraph 2; Information which is likely to reveal the identity of an individual

Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 4; Information relating to any consultations or negotiations, or contemplated consultations for negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority

Paragraph 5; Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

Paragraph 6; Information which reveals that the authority proposes –

- a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- b) to make an order or direction under any enactment

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

Conditions

Paragraph 8; Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

Paragraph 9; Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Paragraph 10; Information which—

- (a) falls within any of paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.