

# Cheltenham Borough Council Council

**Meeting date:** 19 June 2023

**Meeting time:** 2.30 pm

**Meeting venue:** Council Chamber - Municipal Offices

---

## **Membership:**

Councillors Matt Babbage (Chair), Paul Baker (Vice-Chair), Glenn Andrews, Victoria Atherstone, Adrian Bamford, Garth Barnes, Ian Bassett-Smith, Graham Beale, Angie Boyes, Nigel Britter, Jackie Chelin, Ed Chidley, Barbara Clark, Flo Clucas, Mike Collins, Iain Dobie, Stephan Fifield, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Sandra Holliday, Martin Horwood, Peter Jeffries, Tabi Joy, Alisha Lewis, Paul McCloskey, Emma Nelson, Tony Oliver, John Payne, Richard Pineger, Julie Sankey, Diggory Seacome, Izaak Tailford, Julian Tooke, Simon Wheeler, Max Wilkinson, Suzanne Williams and David Willingham

---

## **Important notice – filming, recording and broadcasting of Council meetings**

This meeting will be recorded by the council for live broadcast online at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) and <https://www.youtube.com/@cheltenhambc/streams>. The Chair will confirm this at the start of the meeting.

If you participate in the meeting, you consent to being filmed and to the possible use of those images and sound recordings for broadcasting and/or training purposes.

If you have any questions on the issue of filming/recording of meetings, please contact Democratic Services.

---

**Contact:** [democraticservices@cheltenham.gov.uk](mailto:democraticservices@cheltenham.gov.uk)

**Phone:** 01242 264 246

**1 Apologies**

**2 Declarations of interest**

**3 Minutes of the last meeting (Pages 5 - 8)**

Minutes of the Annual Council meeting held on 15 May 2023.

**4 Communications by the Mayor**

**5 Communications by the Leader of the Council**

**6 To receive petitions**

**7 Public Questions**

**8 Member Questions**

**9 Voter Identification (Pages 9 - 16)**

Report of the Electoral Registration Officer

**10 Revisions to the Constitution (Pages 17 - 76)**

Report of the Leader

**11 Notices of Motion**

**12 Any other item the Mayor determines as urgent and which requires a decision**

**13 Local Government Act 1972 -Exempt Information**

**The committee is recommended to approve the following resolution:-**

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as 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 paragraphs 3 and 5, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 5; Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

**14 A Financial and Legal Matter**

Report of the Leader- TO FOLLOW

Gareth Edmundson  
Chief Executive

This page is intentionally left blank



# Cheltenham Borough Council

## Council

## Minutes

**Meeting date:** 15 May 2023

**Meeting time:** 2.30 pm - 2.50 pm

---

### **In attendance:**

#### **Councillors:**

Sandra Holliday (Chair), Matt Babbage (Vice-Chair), Glenn Andrews, Victoria Atherstone, Paul Baker, Adrian Bamford, Garth Barnes, Ian Bassett-Smith, Graham Beale, Angie Boyes, Nigel Britter, Jackie Chelin, Ed Chidley, Flo Clucas, Mike Collins, Iain Dobie, Stephan Fifield, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Martin Horwood, Peter Jeffries, Tabi Joy, Alisha Lewis, Emma Nelson, Tony Oliver, John Payne, Julie Sankey, Diggory Seacome, Izaak Tailford, Simon Wheeler, Suzanne Williams and David Willingham

#### **Also in attendance:**

Claire Hughes (Corporate Director and Monitoring Officer) and Gareth Edmundson (Chief Executive)

---

### **1 Apologies**

Councillors Pineger, Tooke, Wilkinson

### **2 Communications by the retiring Mayor**

The retiring Mayor reflected that her year in office had given her the opportunity to attend many events and to invite groups in to the parlour to congratulate them on their notable achievements and to support her charities. She hoped that she had fulfilled her role to the best of her ability.

She gave her personal thanks to those officers who had helped and advised her in her role and to democratic services for their support.

The Mayor wished to put on record her thanks, on behalf of the Council, to Harry Mayo, Democracy Officer, who would be leaving the authority and she wished him well in his future career in Wales.

Tribute was paid to Ken Almond, former council parks director, who had recently passed away and who had left a lasting legacy in terms of his work with Cheltenham in Bloom.

The Mayor gave thanks to the coronation community event hosted by the Cheltenham Trust at the Pittville Pump Room.

Finally, the Mayor congratulated the incoming Mayor, Councillor Babbage and wished him an enjoyable and successful year. He had been a great support to her as Deputy Mayor. She also congratulated Councillor Paul Baker, incoming Deputy Mayor appointment.

### **3 Election of Mayor (Chair of Council, 2023-24)**

The Mayor called on Councillor Tim Harman to move the motion proposing Councillor Matt Babbage as Mayor.

Councillor Tim Harman proposed “that Councillor Babbage be, and is hereby, elected Mayor of the Borough of Cheltenham and Council chair for the ensuing Municipal Year”.

The motion was formally seconded by Councillor Hay.

**RESOLVED (unanimously) THAT  
Councillor Matt Babbage be, and is hereby, elected Mayor of the Borough of Cheltenham and Council Chair for the ensuing Municipal Year.**

The Mayor congratulated Councillor Babbage on his appointment and invited him to take over the chair.

The Chief Executive asked the newly-elected Mayor to sign a declaration of acceptance of office of Council Chair 2023-24.

### **4 Election of Deputy Mayor (Vice-Chair of Council 2023-24)**

The Mayor called on Councillor Steve Harvey to move the motion proposing Councillor Paul Baker as Deputy Mayor.

Councillor Harvey proposed “that Councillor Baker be, and is hereby, elected Deputy Mayor of the Borough of Cheltenham and Council vice-chair for the ensuing Municipal Year”.

The motion was formally seconded by Councillor Dobie.

**RESOLVED (unanimously) THAT  
Councillor Paul Baker be, and is hereby, elected Deputy Mayor of the Borough  
of Cheltenham and Council Vice Chair for the ensuing Municipal Year.**

The Mayor congratulated Councillor Baker on his appointment and invited him to take a seat on the dais.

The Chief Executive asked the newly-elected Deputy Mayor to sign a declaration of acceptance of office of Council Vice Chair 2023-24.

### **5 Declarations of interest**

There were no declarations of interest.

### **6 Minutes of the last meeting**

**RESOLVED THAT**

**The minutes of the meeting held on 20 March 2023 be approved and signed as a correct record.**

### **7 Communications by the Mayor**

The Mayor congratulated the retiring Mayor on her year in office and congratulated the incoming Deputy Mayor on his appointment.

### **8 Communications by the Leader of the Council**

The Leader wished to put on record her thanks to Harry Mayo for all the support he has provided to Cabinet and wished him well for the future.

She then thanked the retiring Mayor for her year of service and welcomed Councillors Babbage and Baker as the new Mayor and Deputy Mayor respectively.

The Leader congratulated The Robins (Cheltenham Town Football Club) as they have managed to secure a third successive season in League One, the third tier of English professional football. She also congratulated Cheltenham Tigers Ladies Rugby Football Club who competed in and won their two finals at Twickenham on Sunday 30th April. in the Papa Johns Women's Intermediate Cup Final and the Papa Johns Women's Championship Playoff final.

The Leader reminded Members that the borough was half way through "No Mow May" - a month of leaving many of the town's green spaces unmown. This encouraged more late Spring flowers, which promoted biodiversity in general and had been largely welcomed by many people.

Finally, the Leader paid tribute to the celebrations which took place across the town to mark the Coronation of His Majesty King Charles and Queen Camilla. The Council was delighted with the number of community organisations that have bid for funding from our Coronation Fund and it has been wonderful to see projects coming to life in our streets, parks and neighbourhoods.

**9 Appointment of Member Champions - Mental Health**

**RESOLVED THAT**

**Councillor Wendy Flynn and Councillor Tim Harman be appointed Mental Health Champions to join Councillor Martin Horwood and Councillor Izaak Tailford (existing Mental Health Champions).**

**10 Any other item the Mayor determines as urgent and which requires a decision**

There was none.



## Cheltenham Borough Council

### Full Council – 19<sup>th</sup> June 2023

#### Voter Identification (ID)

---

**Accountable member:**

Cllr Peter Jeffries – Cabinet Member for Finance and Assets

**Accountable officer:**

Paul Jones – Executive Director Finance, Assets and Regeneration (Returning Officer and Electoral Registration Officer)

**Ward(s) affected:**

All

---

**Key Decision:** No

**Executive summary:**

In December 2022, a motion was put forward at Full Council which resolved to ask the Chief Executive and/or Returning Officer to report back to Full Council on this authority's proposals to minimise the risk of disenfranchisement from the Voter ID proposals, which are due to be enacted nationwide from 2023 and would apply to all elections in Cheltenham.

**Recommendations:**

1. Council notes the contents of this report;
  2. Council appoints Gareth Edmundson, Kim Smith and Alison Murray as Deputy Electoral Registration Officers;
  3. Council approves the use of £20,000 from the Elections Equalisation Earmarked Reserve to further promote the requirement for Voter ID in future elections.
-

## Implications

### 1.1 Financial, Property and Asset implications

At 31 March 2023 there is a balance of £66,887 in the Elections Equalisation reserve. It is budgeted that an additional £62,100 will be contributed to this reserve in 2023/24 therefore sufficient funding is available to support the actions outlined in this report. There are no property or asset implications of the recommendations in the report.

**Signed off by:** Gemma Bell, Director Finance and Assets, [gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

### 1.2 Legal implications

Under the Representation of the People Acts, it is essential for the Council to have a designated Electoral Registration Officer (and Returning Officer). Section 52 (2) of the Representation of the People Act 1983 Act provides that any Deputy Electoral Registration Officer must also be approved by the Council. The Voter Identification Regulations 2022 introduced various requirements in relation to voter ID and designated various responsibilities to the Electoral Registration Officer and/or their deputies.

**Signed off by:** One Legal – [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)

### 1.3 Environmental and climate change implications

None directly associated with this report.

**Signed off by:** Laura Tapping, climate change officer, [laura.tapping@cheltenham.gov.uk](mailto:laura.tapping@cheltenham.gov.uk)

### 1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities: *[please delete as appropriate]*

- Ensuring residents, communities and businesses benefit from Cheltenham's future growth and prosperity
- Being a more modern, efficient and financially sustainable council

### 1.5 Equality, Diversity and Inclusion Implications

Members will be keen to ensure that the council is being pro-active to ensure that no sectors of the community are disadvantaged by the implementation of the new voter-ID requirements and will note the list of actions as set out in 4.1

Members will also note that in para 4.5 the fact that the Electoral Commission will publish its own review of the May 2023 council elections to better understand whether any sectors of the community were disadvantaged, the reasons behind this and what can be learnt for future elections.

It is recommended that once the Electoral Commission review is published, that council considers any further action it may wish to take in respect of equality, diversity and inclusion.

**Signed off by:** Richard Gibson, Head of communities, wellbeing & partnerships

[richard.gibson@cheltenham.gov.uk](mailto:richard.gibson@cheltenham.gov.uk)

---

## 2 Background

2.1 From May 2023 individuals, who wish to vote in person, including those acting as a proxy on behalf of another individual, will be required to produce an accepted form of photographic ID to prove their identity before they will be issued with a ballot paper.

2.2 This will apply at:

- UK parliamentary by-elections
- Recall petitions
- Police and Crime Commissioner elections
- Local government elections in England
- Referendums

2.3 The requirement for voter ID to be provided at UK Parliamentary General elections will only take effect for polls on or after 5<sup>th</sup> October 2023. The accepted forms of photographic ID are:

- a passport issued by the UK, any of the Channel Islands, the Isle of Man, a British Overseas Territory, an EEA state, or a Commonwealth country (including an Irish Passport Card)
- a driving licence issued by the UK, any of the Channel Islands, the Isle of Man, or an EEA state (this includes a provisional driving licence)
- a biometric immigration document
- an identity card bearing the Proof of Age Standards Scheme hologram (a PASS card)
- a Ministry of Defence Form 90 (Defence Identity Card)
- a Blue Badge
- a national identity card issued by an EEA state
- an Older Person's Bus Pass funded by the Government of the United Kingdom
- a Disabled Person's Bus Pass funded by the Government of the United Kingdom
- an Oyster 60+ Card funded by the Government of the United Kingdom
- a Freedom Pass
- a Scottish National Entitlement Card issued in Scotland
- a 60 and Over Welsh Concessionary Travel Card issued in Wales
- a Disabled Person's Welsh Concessionary Travel Card issued in Wales
- a Senior SmartPass issued in Northern Ireland
- a Registered Blind SmartPass or Blind Person's SmartPass issued in Northern Ireland
- a War Disablement SmartPass issued in Northern Ireland
- a 60+ SmartPass issued in Northern Ireland
- a Half Fare SmartPass issued in Northern Ireland
- an Electoral Identity Card issued in Northern Ireland

2.4 Expired photographic identification documents can still be used as accepted photographic ID at the polling station, as long as the photograph is still a good likeness of the elector.

## 3 Voter Authority Certificates

3.1 Section 8 of the Representation of People Act 1983 requires a District Council to appoint an officer of the council to be the Electoral Registration Officer within its district. Paul Jones, Executive Director

## Page 12

Finance, Assets and Regeneration, was formally appointed as the Council's Electoral Registration Officer by Full Council at its meeting on 14<sup>th</sup> October 2019.

- 3.2 The main duties of the Electoral Registration Officer include the creation and maintenance of the registers of Electors. The statutory involvement of the post includes the provision of registers and absent voter list for each Polling Station, as well as to candidates at the election and to the Returning Officer.
- 3.3 Where an individual does not have one of the accepted forms of photographic ID (as prescribed in para 2.3 above), they can apply for a Voter Authority Certificate. This is a document containing an elector's name and photograph which can be obtained free of charge from their local Electoral Registration Officer (ERO), following verification of an applicant's identity.
- 3.4 Anonymous electors wishing to vote in person will also need to produce photographic ID. Due to their entry on the polling station register being linked to their electoral number, rather than their name, the only accepted form of photographic ID for an anonymous elector will be an Anonymous Elector's Document. This is a document containing an anonymous elector's elector number and photograph which can be obtained free of charge from their local ERO, following verification of an applicant's identity.
- 3.5 Electors can apply online, by post and in person (by appointment). Regardless of the way a person applies, there will be a check as to the person's electoral registration status, and their identity will need to be confirmed.
- 3.6 The deadline to apply for a voter authority certificate is 5pm 6 working days ahead of the poll.
- 3.7 Voter authority certificates are dispatched via a central print supplier within two working days from determination of the application.
- 3.8 Where an elector has applied ahead of the deadline and a voter authority certificate has been issued before 5pm on polling day, but not received, the Electoral Registration Officer can issue a temporary voter authority certificate valid for a single polling day. Temporary certificates can be printed on standard A4 paper, but for security purposes, must be individually signed by the Electoral Registration Officer. This must be a wet signature and not an image.
- 3.9 There will be times when the Electoral Registration Officer is not available, however, an appointed Deputy will also be able to sign the certificate. It is therefore recommended that Full Council formally appoints Gareth Edmundson, Kim Smith and Alison Murray as Deputy Electoral Registration Officers to ensure resilience.

## **4 Actions being undertaken to minimise the risk of disenfranchisement**

- 4.1 A number of measures have been implemented so far and a number are planned over the coming year:
  - Information provided in the Confirmation of Registration letter sent via email or post to every elector being added to the Electoral Register.
  - Information provided on calling cards left by Electoral Registration Canvassers if they have been unable to obtain a response at the door whilst canvassing.
  - Electoral Registration Canvassers check with each individual where a registration application form is completed that they are aware of the requirement and advise what they need to do if they do not have the necessary photo ID.
  - Information provided on the Council's website

- Social media posts
- Information to partners including Borough and County Councillors parish clerks etc.
- Information in CBH newsletter both digital and hard copy
- Surgeries – a number of drop-in surgeries have been arranged
- Leaflet to be included with canvass communications to households that will receive paper form
- Engagement with community groups
- Posters and information to:
  - Doctors Surgeries
  - Dental Surgeries
  - Feed Cheltenham outlets
  - Voluntary and Community Sector support in Cheltenham

4.2 Funding is being provided using a hybrid approach of upfront grant payments and Justification Led Bids (JLB) and a combination of both via New Burdens Funding. The upfront grants enable a proportion of the funding allocation to be disbursed early in the financial year. As there are no scheduled elections in Cheltenham for 2023 the funding does not cover engagement. The upfront grant is to cover costs for core team training and equipment.

4.3 Members will be aware that whilst no local elections took place in Cheltenham in May 2023, they did take place in other parts of Gloucestershire and throughout England. These were the first set of polls to take place since the voter ID requirement came into force. Early feedback suggests that whilst elections overall were well run, the ID requirement posed a greater challenge for some groups in society, and that some people were unfortunately unable to vote as a result.

4.4 The Electoral Commission expects to publish its initial analysis of the implementation of voter ID in June 2023, subject to data being available.

4.5 In September 2023, the Electoral Commission will publish its full report on the May 2023 elections. This report will feature further data, including the reasons people were turned away, as well as turnout, postal voting and rejected ballot papers. It also plans to provide analysis of other aspects of the elections, including accessibility support that was provided for voters in polling stations.

4.6 In order to enhance local activity and minimise the risk of disenfranchisement, it is recommended that £20,000 is allocated from the Elections Equalisation Earmarked Reserve to further promote the requirement for Voter ID in future elections. The elections team will use the findings from the Electoral Commission's report to target how best to utilise this funding in consultation with the Cabinet Member for Finance and Assets.

## **5 Timelines for implementation of other measures included in the Elections Act**

5.1 Secondary legislation is currently being developed subject to Parliamentary approval of the statutory instruments and it is expected that secondary legislation will be made as follows:

- October 2023 - Online absent vote applications and postal and proxy restrictions
- December 2023 for polls from May 2024 onwards – Postal vote handling and absent vote secrecy
- November 2023 – EU citizens voting and candidacy rights but will not come into effect until after the May 2024 polls.
- January 2024 – Votes for life for overseas electors

---

### **Report author:**

Paul Jones, Executive Director Finance, Assets and Regeneration [paul.jones@cheltenham.gov.uk](mailto:paul.jones@cheltenham.gov.uk)

**Appendices:**

- i. Risk Assessment

**Appendix 1: Risk Assessment**

| Risk ref | Risk description   | Risk owner                     | Impact score<br>(1-5) | Likelihood score<br>(1-5) | Initial raw risk score<br>(1 - 25) | Risk response | Controls / Mitigating actions          | Control / Action owner         | Deadline for controls/ actions |
|----------|--|--------------------------------|-----------------------|---------------------------|------------------------------------|---------------|--|--------------------------------|--------------------------------|
|          | The requirement for photo ID to vote in elections runs the risk of disenfranchising several groups of people | Electoral Registration Officer | 3                     | 4                         | 12                                 |               | As detailed in Section 4 of the report | Electoral Registration Officer | April 2024                     |

This page is intentionally left blank



## Cheltenham Borough Council

**Council – 19 June 2023**

### Revisions to the Constitution

---

**Accountable member:**

Cllr Rowena Hay, Leader of the Council

**Accountable officer:**

Claire Hughes, Corporate Director and Monitoring Officer

**Ward(s) affected:**

n/a

---

**Key/Significant Decision:**

No

**Executive summary:**

This report sets out proposed revisions to the constitution.

**Recommendations:**

**That Council agrees to:**

1. give delegated authority to the Monitoring Officer to update the document to reflect the current accessibility, equity, equality, diversion and inclusivity requirements, including gender neutralization;
2. approve the provisions regarding substitutes as set out in part 6 of this report;
3. approve the revised debate flowchart to replace the existing version in Appendix G of the Constitution;
4. approve the amendments to Part 3 (Responsibility for Functions) as set out in part 8 of this report;
5. give delegated Authority to the Monitoring Officer to make further amendments to Part 3 to ensure that officers delegations reflect the current structure and sit at the appropriate level;

6. approve the amendments regarding webcasting and the retention of recordings as set out in part 9 of this report;
  7. the use of electronic signatures and seals as set out in part 10 of this report is approved
  8. give delegated authority to the Monitoring Officer to make the necessary changes to the Constitution to reflect these decisions.
- 

## 1. Implications

### 1.1. Financial implications

There are no direct financial implications arising from the recommendations.

**Signed off by:** Gemma Bell, Director of Finance and Assets, [gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

### 1.2. Legal implications

There are no specific legal implications arising from the recommendation of the report. Any decision to amend the Constitution rests with Full Council. The Constitution should be kept under review and amended where necessary to provide a clear governance framework that will support effective, efficient and lawful decision making in a manner that also supports accountability, scrutiny, and transparency.

**Signed off by:** One Legal - [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk) Tel (01684) 272012

### 1.3. HR implications

There are no direct HR implications arising from this report.

### 1.4. Environmental and climate change implications

There are no direct environmental or climate change implications arising from this report.

**Signed off by:** Laura Tapping, Climate Change Programme Officer, [laura.tapping@cheltenham.gov.uk](mailto:laura.tapping@cheltenham.gov.uk)

### 1.5. Property/asset implications

There are no direct property or assets implications arising from the recommendations.

**Signed off by:** Gemma Bell, Director of Finance and Assets, [gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

### 1.6. Corporate policy framework implications

The recommendations, if approved, will support the good governance of the council which in turn will enable the council to be better able to deliver its corporate plan

**Signed off by:** Claire Hughes Corporate Director and Monitoring Officer

---

## **2. Promoting equality and reducing discrimination**

There are no direct equality impacts arising from this report

## **3. Performance management – monitoring and review**

n/a

---

## **4. Introduction**

**4.1.** The Constitution is a living document which requires regular review and maintenance. The most recent set of revisions, as set out in this report were considered by the Constitution Working Group on 9 February 2023, who approved all of the recommendations for consideration by Council.

## **5. Accessibility and Equality, Diversity and Inclusion**

**5.1.** Over recent years we have seen the public become more and more interested in local democracy and in understanding how decisions are made within local authorities. With this in mind there has been a drive towards creating documents which can be more easily understood by the public. It is therefore recommended that the current Constitution is updated to reflect a more user friendly language and layout and to incorporate the use of hyperlinks to relevant sections.

**5.2.** In addition, the current document does not fully reflect the existing accessibility standards, nor does it align with the authority's approach to equality, diversity and inclusion. Therefore whilst updating the document it is recommended that the Monitoring Officer seeks to gender neutralize it throughout and ensure that the revised version meets the current accessibility standards.

## **6. Appointment of Substitutes**

**6.1.** The existing provisions in relation to substitutes are set out in Part 4 of the Constitution. They provide that groups must appoint named substitutes and that the number of substitutes is limited to the number of seats on the respective Committee. This limits who can act as a substitute and has on occasions created some difficulties in representation.

**6.2.** Therefore the recommendation is that the Council move away from this process to a more flexible arrangement which simply provides that any member of a political group can substitute for another member of their group at any meeting (noting the relevant exceptions of Cabinet, Standards Committee and Licensing Sub-Committee) provided that they have completed any relevant training.

**6.3.** A tracked change version of the relevant section of the Constitution is attached at Appendix 1 for members consideration.

## **7. Council Debate Flowchart**

**7.1.** On 12 December Council agreed to reduce the speaking time in debate from 5 minutes to 3 minutes. The attached flowchart (Appendix 2) has been developed based on that change. The new flowchart provides a clear framework for motions and amendments and seeks to be

of assistance to the Mayor in Full Council. Council are asked to approve the adopted of the new flowchart which will replace the existing Appendix G of the Constitution.

### **8. Part 3 Responsibility for Functions**

**8.1.** Part 3 of the Constitution sets out all the relevant requirements and parameters around decision making and the responsibility for functions. A number of changes are proposed to this Part as follows:

#### **8.2. Part 3C – Committee Functions**

8.2.1. There are a number of changes proposed to this section, including the addition of the number of committee members being added for all committees. There are also some changes required to the scheme more generally, particularly to reflect current practice in relation to planning and the updated national guidance on the determination of Licensing applications. Full details of the proposed changes can be seen as tracked changes in Appendix 3.

#### **8.3. Part 3D – Officer Non-Executive Functions**

8.3.1. A number of minor amendments are required to this Part including the updating of references to Executive Board and reconciling of delegations to ensure consistency.

#### **8.4. Part 3E – Executive Functions**

##### **8.4.1. *Sub-delegations***

- 8.4.1.1. This Part of the Constitution makes reference to the use of sub-delegations. However, the process is then contained in a separate annex. It is therefore recommended that the appendix be deleted and the text incorporated into the main body of the Part to facilitate a more coherent document.
- 8.4.1.2. A part of that change it is also recommended that the register of sub-delegations is held centrally by Democratic Services. At present the approach is inconsistent with some being held by Dem Services and some in individual services areas. This change will provide greater oversight for the Council as a whole.

##### **8.4.2. *Table 5 – Scheme of Delegation of Executive Functions***

- 8.4.2.1. Table 5 sets out the scheme of delegation of Executive Functions. It requires some minor changes as identified as tracked changes in Appendix 5. The most significant recommended change is around funding bids and the accepting of grants.
- 8.4.2.2. To date there has been some inconsistencies with the interpretation of the decision making process for the submission of funding bids. In addition, we are seeing higher value funding pots being made available and therefore it is considered appropriate to not only clarify the process but also update the financial thresholds. Whilst the proposals can be seen as tracked changes within the table for ease of reference they can be summarised as:

- Authority to submit a funding bid or accept grant funding which has resource implications, and where the amount of funding is less than £500,000 is a director decision
- Authority to submit a funding bid or accept grant funding which has resource implications, and where the amount of funding is more than £500,000 but less £2million is a Leader or Cabinet Member decision
- Authority to submit a funding bid or accept grant funding which has resource implications, and where the amount of funding is more than £2million is a cabinet decision

There is also a footnote which provides that where the bid or grant is over £2million and the deadline for the submission or acceptance makes it impossible for cabinet to make a decision within the required timescales, that the submission or acceptance can be signed off 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 also be informed of proposed decision and the final decision will be reported to the next meeting of the cabinet.

### **8.5. Part 3F – Statutory and Proper Officer Appointments**

- 8.5.1. The current details of the statutory and proper officer appointments sits within a separate appendix in the Constitution. In order to bring everything together in a more coherent format it is recommended that this be relocated to a new section, Part 3F. A copy is attached at Appendix 6.

## **9. Webcasting**

- 9.1. The current protocol for webcasting is contained within Appendix K of the Constitution. The content of it is now out of date and does not reflect the council's current practices and therefore requires some amendment.
- 9.2. At present the protocol provides that recordings of all meetings (with the exception of Cabinet and Council) are deleted from the system once the minutes have been published. It further provides that Cabinet and Council recordings are deleted after a period of 6 months. Whilst it is fully acknowledging that the minutes will always be the legal and official record of the meeting the Monitoring Officer is not of the opinion that deletion of the recordings is a necessity.
- 9.3. Most other local authorities retain recordings on their websites for much longer periods of time. It's therefore recommended that the council changes this current practice and agrees that recordings will be accessible for a period of up to 4 years, after which they will be removed. This change will not only improve the council's openness and transparency but should also reduce the number of FOI requests that are currently received for recordings.
- 9.4. A tracked changes version of the protocol is attached at Appendix 7

## **10. Electronic Signatures and Sealing**

- 10.1. In recent times there has been a mounting trend towards developing a paperless working environment by making more use of electronic means of communication and document retention. As a result the use of electronic signatures became more common.
- 10.2. The Electronic Communication Act 2000 and the Electronic Signature Regulations 2002 deal

## Page 22

with the admissibility and authenticity of electronic signatures.

- 10.3.** With the move towards more remote/hybrid working it is now necessary to accept and formally recognise the validity of electronic signatures on documents such as contracts, agreements, leases, deeds, minutes, resolutions and register of interest forms when used by both the Council and those with whom it enters into a contract or other legally binding deeds and documents.
- 10.4.** In addition remote working does cause some difficulties in affixing the Council's Common Seal to contracts and other documents. The Common Seal is currently held by One Legal in accordance with the Constitution. In the present circumstances it is necessary for physical attendance and signature to affix and witness the affixing of the Common Seal. It is proposed that where possible mobile sealing will be permissible provided that the software being used is secure, reputable and effective in allowing both the Council and other parties to easily sign documents with a strong audit trail to confirm who has performed the signature.
- 10.5.** In order to effect this change some amendments to the Constitution will be required. For example the addition of the following additional paragraphs:

Electronic signatures may be used by both the Council and the Supplier in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Director of One Legal.

Electronic signatures will, in accordance with the Electronic Communication Act 2000, be accepted as a fair representation of a willingness to enter into a contract by and with the Council, insofar as the e-signature is a true representation of the authorised person's written signature and (a) and (b) below apply (to the supplier) in which case an e-signature and a signature will be referred to as the same.

- (a) the Contract will be entered into in relation to being either under seal or under hand; and
- (b) is supported with a contemporaneous document of authenticity and authorisation from the Supplier.

- 10.6.** There will also be further additional minor amendments throughout the Constitution where reference is made to the seal or execution of documents.
- 10.7.** Members are asked to note that whilst authority is sought to amend the Constitution prior to implementation a guidance document will be provided to members and officers clearly setting out the detailed parameters on use and highlighting any documents where electronic signatures are still prohibited by law.

### **11. Reasons for recommendations**

- 11.1.** To ensure that the councils constitution remains up to date.

### **12. Alternative options considered**

- 12.1.** None but Council could decide not to approve the revisions

### **13. Consultation and feedback**

13.1. Constitution Working Group

**14. Key risks**

14.1. None

---

**Report author:**

Claire Hughes, Corporate Director and Monitoring Officer, [claire.hughes@cheltenham.gov.uk](mailto:claire.hughes@cheltenham.gov.uk)

**Appendices**

1. Provision for substitutes
2. Council motion flowchart
3. Part 3C of the Constitution – Committee Functions
4. Part 3D of the Constitution – Officer Non-Executive Functions
5. Part 3E of the Constitution – Executive Functions
6. Part 3F of the Constitution – Statutory and Proper Officers
7. Webcasting Protocol

**Background information:**

[Cheltenham Borough Council Constitution](#)

This page is intentionally left blank



**Substitutes**

Part 4A Council Procedure Rules

~~RULE 10. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES ALLOCATION~~

~~10.1 As well as allocating seats on Committees, the Council may allocate seats in the same manner for substitute Members other than to the Standards Committee. This may be done at Annual and Selection Council and at other Council meetings as vacancies arise. Number~~

~~10.2 For each Committee, the Council may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on that Committee.~~

Part 4C Committee Procedure Rules

**RULE 3. SUBSTITUTE MEMBERS**

General

~~3.1 The Council has the power of appointment of substitute Members to Committees and Committees have the power of appointment of substitute Members to sub-Committees. Number~~

~~3.2 For each Committee, the Council may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on that Committee.~~

~~3.3 For each sub-Committee, the Committee may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on that sub-Committee.~~

~~3.4 If a Political Group on the Council has less than 10 Members they may appoint one additional substitute for any committee, which, for Regulatory Committees, could be a Member from another Political Group or an Independent Member, provided they fulfil the requirements of paragraph~~

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

### 3.2 Number

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.

### 3.3 Powers and Duties

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.

### 3.4 Regulatory Committees

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.

~~3.7 A substitute Member may participate in a Meeting in that capacity only: (a) to take the place of an ordinary Member for whom they are the designated substitute; (b) where the ordinary Member will be absent for the whole of the meeting; and (c) subject to Rule 3.7, after notifying a Proper Officer of the intended substitution at least two hours before the start of the Meeting. 3.8 Where, immediately following Annual and Selection Council, a Committee chooses to appoint its Chairman and Vice Chairman, a substitute Member may participate in the Meeting pursuant to Rule 3.6 after giving verbal notice of their substitution to the Proper Officer~~

## Part 4D Overview and Scrutiny Rules

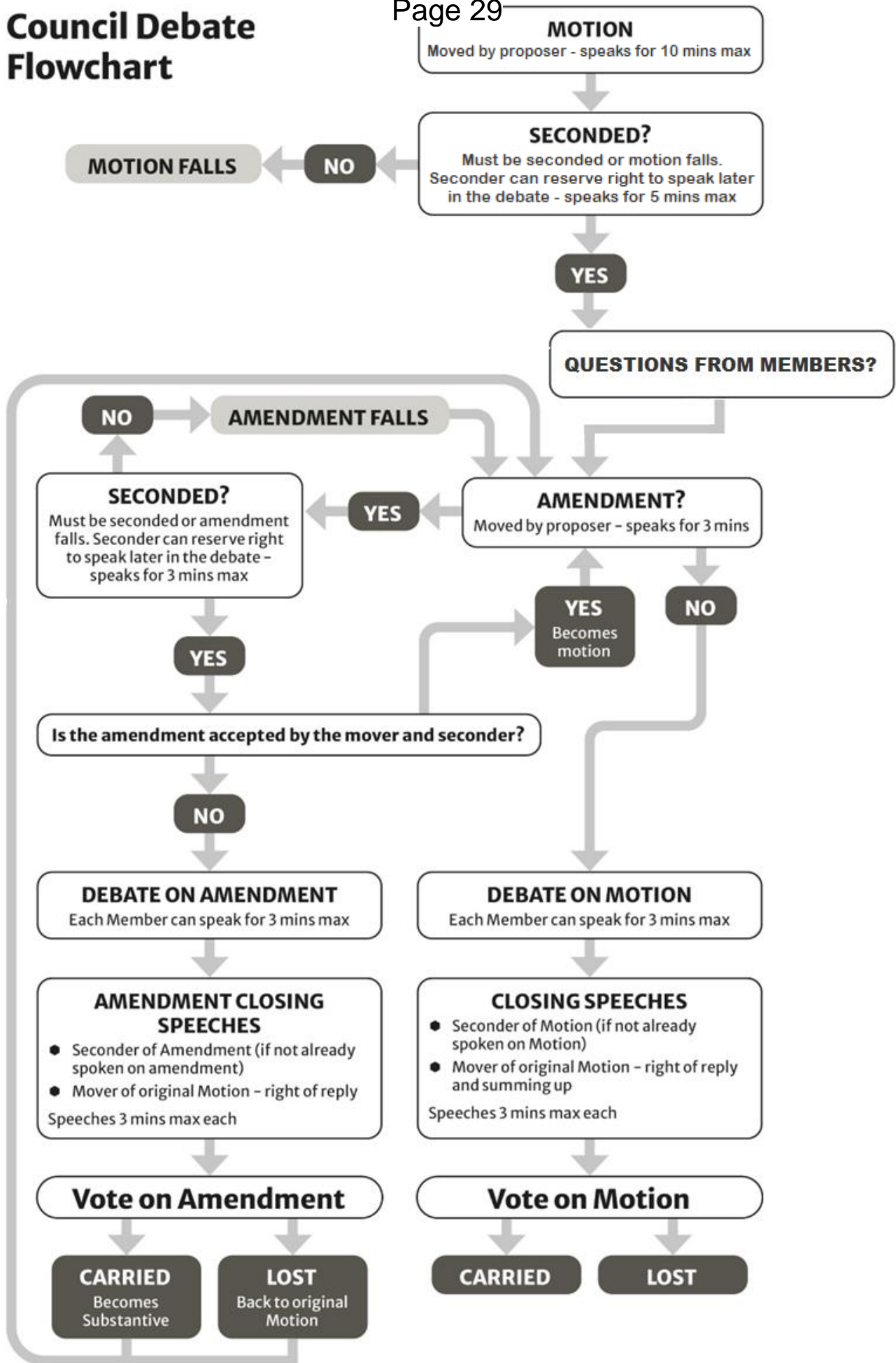
~~Substitute Members 2.13 Council has the power of appointment of substitute Members to O&S Committee and the Committee has the power of appointment of substitute Members to sub-Committees. The substitution process is set out in Rule 31. 2.14 Council may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on O&S Committee. Page 147 Last updated: 05/03/20 2.15 For each sub-Committee, O&S Committee may appoint up to the same number of substitutes in respect of each Political Group as that Group holds ordinary seats on that sub-Committee~~

~~RULE 29. SUBSTITUTION PROCESS 29. A substitute Member may participate in a meeting of the O&S Committee in that capacity only: (a) to take the place of an ordinary Member~~

~~for whom they are the designated substitute; (b) where the ordinary Member will be absent for the whole of the meeting; and (c) subject to Rule 29.2, after notifying the Proper Officer of the intended substitution at least two hours before the start of the meeting. 29.2 Where, immediately following Annual and Selection Council, the Committee chooses to appoint its Chairman and Vice-Chairman, a substitute Member may participate in the meeting pursuant to Rule 29.1 after giving verbal notice of their substitution to the Proper Officer~~

This page is intentionally left blank

# Council Debate Flowchart



This page is intentionally left blank

**PART 3**

Responsibilities for Functions

**Part 3C – Committee Functions**

- 3C.1 Council has established<sup>1</sup> 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<sup>2</sup> and ~~these are~~ 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)**

| <b>PLANNING COMMITTEE <u>(made up of 11 members)</u></b>  |  |
|---|--|
| <b>Function</b>   | <b>Condition</b>   |
| <p><b>Planning, etc. applications</b><br/>                     Determine an application for:</p> <ul style="list-style-type: none"> <li>(a) full planning permission;</li> <li>(b) outline planning permission;</li> <li>(c) approval of reserved matters;</li> <li>(d) listed building consent;</li> <li><del>(e) conservation area consent;</del></li> <li><u>(e) advertisement control consent</u></li> <li><u>(f) fpermission in principle;</u></li> <li><u>(f)(g) technical details consent</u></li> </ul> | <p>The power shall only be exercised where the application:</p> <ul style="list-style-type: none"> <li>(a) <u>is contrary to the provisions of the development plan and is being recommended for approval if granted, would be a departure from or would conflict with the development plan/local development framework or other planning policies adopted by the Council;</u></li> <li>(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 <del>any local amenity organisation</del> <u>the parish council, any residents association</u> or any statutory consultee; unless the Chair and</li> </ul> |

<sup>1</sup> Pursuant to s101 LGA 1972, Licensing Act 2003, Gambling Act 2005

<sup>2</sup> Required by s21 LGA 2000

|  |   |
|--|---|
|  | <p>Vice Chair consider that the objection is one which does not require Committee assessment;</p> <p>(c) is one in respect of which any Member has, <del>prior to the expiry of the statutory consultation period,</del> <u>within 21 days of being notified that a valid application has been received</u> submitted a written request <u>setting out the public interest and planning reasons and explanation</u> to the Director of Communities &amp; Economic Development that it be determined by the Planning Committee <u>and that request has been accepted in accordance with the referral process</u><sup>3</sup>;</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 <u>by way of formal resolution</u> specifically required should be determined by the Committee; or</p> <p>(g) is one which the Director of Communities and Economic Development <u>or Head of Planning</u> considers should be determined by Planning Committee.</p> |
| <p><b>Trees</b></p> <p>Determine planning 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</p>   |

<sup>3</sup> [The referral process is set out in the detail in the Planning Code of Conduct](#)



|   |   |
|---|---|
|   | consultation period, requested should be determined by Planning Committee; or<br>(c) which the Director of Communities and Economic Development <u>or Head of Planning</u> considers should be determined by Planning Committee |
| <b>Planning Policy</b><br>Act as consultee to Cabinet Member on recommendations/responses for the adoption and review of local and national planning policy | Adoption of local planning policy is a Council function   |

| <b>LICENSING COMMITTEE<sup>4</sup> (made up of 10 members)</b>   |   |
|--|---|
| <b>Function</b>  | <b>Condition</b>  |
| <u>Establish Licensing Sub-Committees</u>  |   |
| <b>Licensing Act 2003</b><br>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  |
| <del>Establish Licensing Sub-Committees</del>  |   |
| <b>MISCELLANEOUS LICENSING SUB-COMMITTEE</b>   | <b>(5 Members politically balanced)</b>   |
| <b>Hackney Carriage and Private Hire</b>   |   |
| Determine an application for the grant variation or renewal of a driver or vehicle licence   | <u>1. Where an application is made contrary to adopted policy and where officers do not have delegated powers</u><br><u>2. Any matter(s) calling into question the fitness of an applicant, licensed driver and/or licensed vehicle</u><br><u>3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee</u><br><u>If a relevant objection is made</u> |
| Determine an application for the grant or variation of an operator's licence   | <u>1. Where an application is made contrary to adopted policy and where officers do not have delegated powers</u><br><u>2. Any matter(s) calling into</u>   |

<sup>4</sup>Licensing Committee restructure agreed at Licensing Committee on 12 April 2017

|  |  |
|--|--|
|  | <p><u>question the fitness of an applicant, licensed operator</u></p> <p><u>3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee</u></p> <p>If a relevant objection is made</p>   |
| Determine an application for the transfer of a vehicle licence   | <p><u>1. Where an application is made contrary to adopted policy and where officers do not have delegated powers</u></p> <p><u>2. Any matter(s) calling into question the fitness of an applicant and/or licensed vehicle</u></p> <p><u>3. Any other circumstance(s) where an officer deems it relevant to exercise discretion to refer a matter to the committee</u></p> <p>If a relevant objection is made</p> |
| 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   | If a relevant representation is made   |
| Adopt and amend standard conditions for hackney carriage and private hire licences   |  |
| <p><b><u>Any other licensable activity not otherwise referred to Miscellaneous Licensing Functions) (including sex establishments)</u></b></p> <p><del>including Street trading, Street collections, House to house collections, Objects on the highway, , Caravan sites, Camping sites and moveable dwellings, Acupuncture, tattooing, ear-piercing and electrolysis, Game dealers, Scrapyards, Zoos, Dangerous wild animals)</del></p> |  |
| 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   |
|  |  |
|  |  |
| <b>ALCOHOL AND GAMBLING LICENSING SUB-COMMITTEE</b>  | <b>(3 Members from the main committee (not substitutes) no requirement for political</b>   |

|   | <b>balance)</b>   |
|---|---|
| <b>Function</b>   | <b>Condition</b>  |
| <b>Licensing Act 2003</b>   |   |
| 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 considering the application  | All cases   |
| Determine a police objection to a temporary event notice  | All cases   |
| <u>Determine an application to vary premises licence at community premises to include alternative licence conditions</u>  | <u>If a police objection</u>  |
| <b>Gambling Act 2005</b>  |   |
| 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 <u>or responsible authority</u> |
| Determine an application for a provisional statement  | <u>If a relevant representation made</u><br><u>All cases</u>                              |
| 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   |

|   |  |
|---|--|
|   |  |
| <b>AUDIT, COMPLIANCE AND GOVERNANCE COMMITTEE <u>(made up of 7 members)</u></b>   |  |
| <b>Function</b>   |  |
| <b>General</b>  |  |
| Provide a broad based audit role across all areas of the Authority, while promoting and ensuring effective internal control and independent assurance mechanisms  |  |
| <b>Internal Audit</b>   |  |
| 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  |  |
| <b>External Audit</b>   |  |
| 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  |  |
| <b>Risk Management</b>  |  |
| 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  |  |
| <b>Annual Statement of Accounts</b>   |  |
| 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  |  |

| <b>Corporate Governance Framework</b>   |
|---|
| 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 Standards Committee and Borough Solicitor & 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 and Standards Committee.  |

### **APPOINTMENTS AND REMUNERATION COMMITTEE (made up of 9 members)**

#### **Function**

Be responsible for the appointment and dismissal of any Executive Officers<sup>5</sup>

*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:-*

- 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*
- 2. the Committee is satisfied that any objection made is not material or is not well founded; or*
- 3. the Leader has, within the period specified in the notification, notified the Chief Executive that neither ~~he~~she~~they~~ nor any member of the Cabinet has any objections*

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<sup>6</sup> or remuneration<sup>7</sup> 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

<sup>3</sup>Where the Committee is appointing or dismissing the Head of Paid Service, Council must approve the appointment or dismissal before an offer of appointment or notice of dismissal is issued. Where the Committee appoints to the posts of Monitoring or Chief Finance Officer it is for Council to designate the post holder in that statutory role.

<sup>4</sup>Except for disciplinary matters, which fall within the remit of Disciplinary Committee.

<sup>7</sup>Remuneration is salary received by the employee or executive for duties undertaken during his/~~her~~their employment

|   |
|---|
| 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) <sup>8</sup> to<br>(a) appoint, if appropriate, an investigator to carry out an investigation on behalf of the Committee (which power can be delegated to an Officer);<br>(b) receive and consider any report of an investigator;<br>(c) hold a capability, disciplinary or grievance hearing;<br>(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) |
| <b>APPEALS COMMITTEE <u>(made up of 5 members)</u></b>  |
| <b>Function</b>   |
| 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  |

|  |  |
|--|--|
| <b>STANDARDS COMMITTEE <u>(made up of 7 members)</u></b> |  |
| <b>Function</b>  |  |
| (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"> <li>• advise the Council on the adoption or revision of the Code;</li> <li>• monitor the operation of the Code; and</li> <li>• provide advice and training.</li> </ul> |
| (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"> <li>• advise Parish Councils on the adoption or revision of Codes of Conduct;</li> <li>• monitor the operation of their Codes; and</li> </ul>                    |

<sup>8</sup> - At Council on 27/3/2017 Paul Jones was designated permanently to the role of CFO (to include Section 151 Officer) effective from 28/03/2017.

- At Council on 29/06/2009, Sara Freckleton from One Legal (TBC) was designated as Cheltenham Borough Council's Monitoring Officer for the purposes of s5(1) of the Local Government and Housing Act 1989 with effect from 1st July 2009

|     |  |
|-----|--|
|     | <ul style="list-style-type: none"> <li>provide advice and training to Parish Councillors.</li> </ul>   |
| (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 him/her.   |
| (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 <u>his/hers</u> delegated authority.  |
| (f) | Receive summary reports from the Monitoring Officer: <ol style="list-style-type: none"> <li>on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and</li> <li>on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.</li> </ol> |
| (g) | 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 Standards 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> <ol style="list-style-type: none"> <li>censure;</li> <li>report to Council;</li> <li>recommend actions to the Leader of the Council;</li> <li>recommend actions to Group Leader (e.g. removal from a Committee)</li> <li>removal from Outside Bodies;</li> <li>withdrawal of facilities, such as Council email/website/internet access;</li> <li>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</li> <li>requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.</li> </ol> |

|     |   |
|-----|---|
| (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"> <li>a) censure;</li> <li>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</li> <li>c) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.</li> </ul> |
|-----|---|

**Table 3**

|  |
|--|
| <b>OVERVIEW &amp; SCRUTINY COMMITTEE <u>(made up of 9 members)</u></b>   |
| <b>Functions</b>   |
| <b>General</b>   |
| 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   |
| <b>Scrutiny</b>  |
| Consider call-ins <sup>9</sup> , 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   |
| <b>Policy review and development</b>   |

<sup>9</sup> Rule 14 Overview & Scrutiny Rules (see Part 4D)



|  |
|--|
| Receive and comment on plans, strategies, policies and budget proposals that comprise the Budget and the Policy Framework <sup>40</sup>  |
| 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                             |
| <b>Crime and disorder</b>  |
| Consider any crime and disorder matters <sup>41</sup>  |

<sup>40</sup> In accordance with Rule 2 Budget & Policy Framework Rules (see Part 4G)

<sup>41</sup> Under s19 Police and Justice Act 2006 the Authority must specify a committee to deal with such matters

This page is intentionally left blank

**PART 3**

Responsibilities for Functions

**Part 3D – Officer Non-Executive Functions**

- 3D.1 All non-Executive Functions<sup>1</sup>, other than those allocated in Parts 3B & C above, are delegated to ~~the Executive Directors and Directors~~officers as set out in Table 4 below.
- 3D.2 In addition, ~~the Executive Directors and Directors~~officers will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 ~~The Executive Directors and Directors~~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 ~~Appendix D~~Part 3E.
- 3D.4 An Officer does not have delegated authority to take a Significant Decision<sup>2</sup> unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Chief Executive(or, in ~~his or her~~their absence or where ~~he/she is~~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.

---

<sup>1</sup> As set out in the Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended (see Appendix E)

<sup>2</sup> ~~As defined in Article 13~~

**Table 4 (Non-Executive functions of Officers)**

| <b>Chief Executive</b>  |  |
|---|--|
| <b>Function</b>   | <b>Condition</b>   |
| Discharge any non-Executive Function not otherwise allocated in Parts 3B-D of the Constitution  | Unless prohibited by law   |
| 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<br>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 <sup>3</sup> in respect of a non-Executive Function, including a Significant Decision <sup>4</sup> , 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.<br>Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chairman.<br>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 <sup>5</sup><br>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 <sup>6</sup> on the manner in which the Authority functions are co-ordinated, the number and grades of staff to discharge those functions and the organisation and proper management of those staff |  |

<sup>3</sup> As defined in Article 13

<sup>4</sup> As defined in Article 13

<sup>5</sup> See Part 4G

<sup>6</sup> s4 LG(MP)Act 1989

|  |   |
|--|---|
| 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 <sup>7</sup>  |
| 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 <sup>8</sup>   | 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 <sup>9</sup> |   |

| <b>Executive Directors</b>   |   |
|--|---|
| <b>Function</b>  | <b>Condition</b>  |
| Discharge any Non-Executive Function which is delegated to an Officer (including the Chief Executive) under this Part 3D | Where that Officer is absent or unable to act through conflict of interest or otherwise<br>Except in the case of the Monitoring Officer or Chief Finance Officer where they have allocated the function to their deputy |
| Undertake the statutory role of Head of Paid Service   | Where the Chief Executive is absent or unable to act through conflict of interest or otherwise. The role rests with the Executive Director who is deputising for that period.   |

| <b>Chief Finance Officer Executive Director for Finance, Assets and Regeneration</b>  |                  |
|---|------------------|
| <b>Function</b>   | <b>Condition</b> |
| Undertake the functions of the Authority's Chief Financial Officer to ensure proper administration of the Authority's financial affairs |                  |

<sup>7</sup> Under s4 LG(MP) Act 1989

<sup>8</sup> See Appendix F for Proper and Statutory Officer appointments

<sup>9</sup> Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

|  |   |
|--|---|
| Approve ex gratia and maladministration compensation payments up to £5,000 <sup>10</sup>                                 | In consultation with an Executive Director.   |
| 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 | Executive Leadership Team and Group Leaders to be informed of any change which the Director considers to be significant |

| <b>Chief Executive Monitoring Officer</b>   |  |
|---|--|
| <b>Function</b>   | <b>Condition</b>   |
| Amend the Constitution to reflect changes of fact including changes in allocation of Functions  | Executive Leadership Team, <del>Borough Solicitor</del> and Group Leaders to be informed of any change which the <del>Director</del> <u>Monitoring Officer</u> considers to be significant |
| Make minor changes to the Contract Rules to reflect changes in fact and procurement requirements and best practice  | <del>Borough Solicitor,</del> Executive Leadership Team and Group Leaders to be informed of any change which the <del>Director</del> <u>Monitoring Officer</u> considers to be significant |
| Undertake the functions of the Monitoring Officer <sup>14</sup> —prescribed by law and in this Constitution   |  |
| Make minor changes to the Constitution to reflect changes in fact, law and best practice and rectify errors and inconsistencies   | Executive Leadership Team and Group Leaders to be informed of any change which the 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"> <li>to determine, after consultation with the Independent Person(s), whether a complaint should be investigated and to arrange such investigation;</li> <li>to seek local resolution of complaints without formal investigation where it is possible to do so;</li> <li>to close a complaint if the investigation finds no evidence of failure to comply with the Code of Conduct;</li> <li>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</li> </ul> |  |

<sup>10</sup> S92 LGA 2000

<sup>14</sup> ~~The Monitoring Officer is appointed by Council under s5 LG(MP) Act 1989 and seconded from Tewkesbury BC to the Authority for that purpose under s113 LGA 1972~~

|   |  |
|---|--|
| <p>complainant being satisfied with the proposed resolution;</p> <ul style="list-style-type: none"> <li>• to grant dispensations if, after considering all of the circumstances of the case, the Monitoring Officer considers:-             <ul style="list-style-type: none"> <li>(a) that the business will be impeded because of the number of Members prohibited from participating;</li> <li>(b) that without the dispensation the political proportionality would be distorted to alter the outcome of the vote.</li> </ul> </li> </ul> |  |
|---|--|

| <b>Executive Directors &amp; Directors</b>  |  |
|---|--|
| <b>Function</b>   | <b>Condition</b>   |
| 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   | In consultation with Chief Finance Officer. If exceeding £10,000, Cabinet Member to be informed.                                     |
| Set fees and charges and increase in line with inflation for non-Executive functions  | Cabinet Member or Appropriate Committee Chairman to be informed  |

| <b>Director of Communities and Economic Development</b>  |  |
|--|--|
| <b>Function</b>  | <b>Condition</b>   |
| <p>Determine applications for:</p> <ul style="list-style-type: none"> <li>(a) full planning permission;</li> <li>(b) outline planning permission;</li> <li>(c) approval of reserved matters;</li> <li>(d) listed building consent;</li> <li>(e) conservation area consent;</li> <li>(f) advertisement control consent</li> </ul> | 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 & Conservation Area) Act 1990 and all planning related legislation   | Except as specifically allocated to or by Council                            |

|  |  |
|--|--|
| 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 <sup>12</sup> |  |
| Extinguish public right of way over land acquired for clearance <sup>13</sup>  |  |
| Undertake functions relating to high hedges and protection of important hedgerows <sup>14</sup>  |  |

| <b>Head of Public Protection</b>   |  |
|--|--|
| <b>Function</b>  | <b>Condition</b>   |
| 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                 |
| 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  |  |

<sup>12</sup> ss 247, 257, 258 TCPA 1990

<sup>13</sup> s294 Housing Act 1981

<sup>14</sup> Part 8 Anti-Social Beh Act 2003 & Hedgerows Regs 1997



**PART 3E****EXECUTIVE FUNCTIONS****General**

- 3E.1 The Authority operates a Leader and Cabinet<sup>4</sup> 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<sup>2</sup> 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<sup>3</sup>
  - (e) another local authority<sup>4</sup>
  - (f) jointly with another local authority through a joint committee or officer<sup>5</sup>

**Delegations**

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 5 '~~General~~-Scheme of Delegation of Executive Functions' and Table 6 'Additional Delegation of Executive Functions to Officers'. In Table 5 reference to '~~Lead Cabinet Member~~' means a Cabinet Member acting in portfolio ~~as set out in Appendix A~~ and reference to 'Officer' means Chief Executive, Executive Director or Director.
- 3E.4 The Leader has directed that the Executive Functions delegated to Cabinet and ~~Lead Cabinet~~ Members as set out in Table 5 shall not be sub-delegated to Officers without ~~his~~ their prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Tables 5 and 6 and ~~Appendix A~~ 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<sup>6</sup>.

<sup>1</sup> In December 2010 Council resolved to transfer from an 'old style' strong leader model (LGA 2000) to a strong leader arrangement under the LGPIH 2007 to take effect after the May 2012 Borough elections.

<sup>2</sup> LGA 2000 Part 1A Ss9E, 9EA, 9EB

<sup>3</sup> If permitted by the Leader – Cabinet, a Cabinet Committee, a Cabinet Member, another local authority, a joint committee or joint officer may also delegate Executive Functions to an Officer

<sup>4</sup> If permitted by the Leader – Cabinet, a Cabinet Committee, A Cabinet Member or an Officer may delegate Executive Functions to another local authority

<sup>5</sup> If permitted by the Leader – Cabinet, a Cabinet Committee, A Cabinet Member or an Officer may delegate Executive Functions to be exercised jointly with another local authority through a joint committee or an officer

<sup>6</sup> S48(4) LGA 2000

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 Officer<sup>7</sup> 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.<sup>8</sup>

3E.8 In the absence of the Leader ~~the Deputy Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are is~~ authorised to exercise the functions of the Leader pursuant to the Constitution.

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, Executive Directors, 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; set out in Appendix D.

#### **Sub-delegations**

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:

- 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

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

<sup>7</sup> The Chief Executive or, where they are absent or unable to act, the Monitoring Officer

<sup>8</sup> LGA 2000 s9E&

- 3E.11 An Officer does not have delegated authority to take a Key Decision<sup>9</sup> 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, an Executive Director) is taking an urgent decision<sup>10</sup> as set out in this Part 3E<sup>11</sup>.
- 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 Lead-Cabinet Member or Cabinet. Such direction must be exercised in consultation with the Chief Executive or Appropriate Executive Director or Director(s).
- 3E.14 A Lead-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 Lead-Cabinet Member. Such direction must be exercised in consultation with the Chief Executive or Appropriate Executive Director(s) or Director(s) and the Leader.
- 3E.15 The Chief Executive or Executive Director or a Director may at their discretion and in consultation with the Leader or Lead-Cabinet Member refer any matter to the Leader, the Cabinet or a Lead-Cabinet Member for decision.
- 3E.16 Officers have responsibility to report to the Leader, Cabinet or the Lead-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.

---

<sup>9</sup> As defined in Article 13

<sup>10</sup> As defined in Article 13

<sup>11</sup> See Tables 5 and 6

**Table 5 ~~General~~ Scheme of Delegation of Executive Functions**

In this table the following abbreviations have the following meanings:

CEO – Chief Executive

ED – Executive Director

All – Chief Executive, Executive Directors and Directors

| FUNCTION   | Leader | <del>Lead</del><br><u>Cabinet</u><br>Member <sup>12</sup> | Cabinet | Joint Arrangements | Other Local Authority | Officer <sup>13</sup> |
|--|--------|---|---------|--------------------|-----------------------|-----------------------|
| <b>Policy &amp; Strategy</b>   |        |   |         |                    |                       |                       |
| Recommend to Council all plans strategies and policies which comprise the Policy Framework <sup>14</sup> and initiate consultation on such plans policies and strategies |        |   | ✓       |                    |                       |                       |
| Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution  |        |   | ✓       |                    |                       |                       |
| Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them                | ✓      |   |         |                    |                       |                       |
| Take urgent decisions <sup>15</sup> that are contrary to or not wholly in accordance with the Policy Framework <sup>16</sup>   | ✓      |   | ✓       | ✓                  |                       | CEO                   |
| Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval <sup>17</sup>                               | ✓      | ✓   |         |                    |                       | All                   |
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval  |        |   | ✓       |                    |                       |                       |
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions <sup>18</sup> )           |        | ✓   |         |                    |                       |                       |

<sup>12</sup> As defined in Appendix A

<sup>13</sup> ~~CE – Chief Executive, ED – Executive Director, All – Chief Executive, Executive Directors, Directors~~

<sup>14</sup> As defined in Article 4

<sup>15</sup> As defined in article 13

<sup>16</sup> Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

<sup>17</sup> See Appendix C

<sup>18</sup> Key Decision is defined in Article 13

| FUNCTION   | Leader | <u>Lead Cabinet Member</u> | Cabinet | Joint Arrangements | Other Local Authority | Officer    |
|--|--------|----------------------------|---------|--------------------|-----------------------|------------|
| Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)   |        |                            |         |                    |                       | All        |
| Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues  | ✓      | ✓                          |         |                    |                       |            |
| Respond to all other consultations   |        |                            |         |                    |                       | CEO or ED  |
| Implement the Authority's Risk Management Policy & Strategy  | ✓      | ✓                          | ✓       |                    |                       | All        |
| <b>Finance</b>   |        |                            |         |                    |                       |            |
| Prepare and consult on the Authority's Budget <sup>19</sup> and recommend to Council for approval  |        |                            | ✓       |                    |                       |            |
| Receive and consider quarterly budget monitoring reports   |        |                            | ✓       |                    |                       |            |
| Take urgent decisions <sup>20</sup> that are contrary to or not wholly in accordance with the Budget <sup>21</sup>   | ✓      |                            | ✓       | ✓                  |                       | CEO        |
| Make bid for external funding <u>or accept grant funding with resource implications where the amount of funding exceeds £2 million<sup>22</sup> -exceeding £250,000</u> and to accept the terms and conditions of that funding, if awarded.                              |        |                            | ✓       |                    |                       | <u>All</u> |
| Make bid for external funding <u>with or accept grant funding resource implications where the amount of funding -exceeding exceeds £5400,000 but does and not exceeding exceed £250,0002 million and to accept the terms and conditions of that funding, if awarded.</u> | ✓      | ✓                          |         |                    |                       |            |
| Make bid for external funding <u>or accept grant funding with resource implications where the amount of funding</u>  |        |                            |         |                    |                       | All        |

<sup>19</sup> As defined in Article 4

<sup>20</sup> As defined in Article 13

<sup>21</sup> Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

<sup>22</sup> 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.

|  |  |   |   |  |  |  |
|--|--|---|---|--|--|--|
| is less than £500,000 and to not exceeding £100,000 accept the terms and conditions of that funding, if awarded. |  |   |   |  |  |  |
| Propose to Council a contribution to reserves above the level set in the Budget                                  |  |   | ✓ |  |  |  |
| Agree use of charging and trading powers   |  | ✓ | ✓ |  |  |  |
| Set fees and charges   |  | ✓ |   |  |  |  |

| FUNCTION  | Leader | Lead Cabinet Member | Cabinet | Joint Arrangements | Other Local Authority | Officer   |
|---|--------|---------------------|---------|--------------------|-----------------------|---|
| Agree increase in fees and charges by more than inflation   |        |                     | ✓       |                    |                       |   |
| Agree increase in fees and charges in line with inflation   |        |                     |         | ✓                  |                       | All   |
| <b>Assets &amp; Property</b>  |        |                     |         |                    |                       |   |
| Agree asset management plan   |        |                     | ✓       |                    |                       |   |
| Make compulsory purchase order (CPO) <sup>23</sup>  |        |                     | ✓       |                    |                       |   |
| Acquire land or property following CPO  |        |                     |         |                    |                       | ED of Finance, Assets & Regeneration  |
| Acquire other land or property or acquire a lease or tenancy agreement where the value exceeds £250,000         |        |                     | ✓       |                    |                       | Head of Property & AM or ED of Finance, Assets & Regeneration <sup>24</sup> |
| Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £250,000 |        | ✓                   |         |                    |                       | see footnote 23   |

<sup>23</sup> For example, pursuant to S226(1) Town and Country Planning Act 1990, Section 17 Housing Act 1985, Section 47 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 93 Local Government and Housing Act 1989, Section 121 Local Government Act 1972.

<sup>24</sup> 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](#))

|   |        |                     |         |                    |                       |                                      |
|---|--------|---------------------|---------|--------------------|-----------------------|--------------------------------------|
| Agree Void/Surplus Property Register in consultation with Asset Management Working Group  |        |                     |         |                    |                       | ED of Finance, Assets & Regeneration |
| Dispose of or exchange land or property with a value exceeding £250,000 including at an undervalue <sup>25</sup>  |        |                     | ✓       |                    |                       |                                      |
| Dispose of or exchange land or property with a value exceeding £10,000 and not exceeding £250,000 including at an undervalue <sup>26</sup>  |        | ✓                   |         |                    |                       |                                      |
| FUNCTION  | Leader | Lead Cabinet Member | Cabinet | Joint Arrangements | Other Local Authority | Officer                              |
| Dispose of or exchange land or property with a value not exceeding £10,000 including at an undervalue <sup>27</sup>   |        |                     |         |                    |                       | ED of Finance, Assets & Regeneration |
| Dispose of or exchange land or property where there is a statutory right to acquire   |        |                     |         |                    |                       | ED of Finance, Assets & Regeneration |
| Dedicate sell or lease land for highway purposes and for public utilities where this does not materially interfere with the proper management of the land/retained land or its investment value |        | ✓                   |         |                    |                       |                                      |
| Apply to Secretary of State to dispose of housing land under Housing Act 1985 <sup>28</sup>   |        | ✓                   |         |                    |                       |                                      |
| Authorise the disposal of or change the use of (appropriate) public open space <sup>29</sup>  |        |                     | ✓       |                    |                       |                                      |
| Give public notice of a proposal to dispose of or change the use of public open space   |        |                     |         |                    |                       | ED of Finance, Assets & Regeneration |

<sup>25</sup> A disposal at less than best consideration requires Secretary of State specific approval or general consent

<sup>26</sup> A disposal at less than best consideration requires Secretary of State specific approval or general consent

<sup>27</sup> A disposal at less than best consideration requires Secretary of State specific approval or general consent

<sup>28</sup> Subject to Council authorisation (para // LG (Functions & Responsibilities Regulations) 2000)

<sup>29</sup> S121 & 123 LGA1972

|   |        |                            |         |                    |                       |                                      |
|---|--------|----------------------------|---------|--------------------|-----------------------|--------------------------------------|
| Authorise the disposal of statutory allotments <sup>30</sup>  |        |                            | ✓       |                    |                       |                                      |
| Allocate and re-allocate all Authority owned assets, land and property between service areas  | ✓      |                            |         |                    |                       |                                      |
| Authorise a change in use of Authority owned land or property <sup>31</sup>   |        | ✓                          |         |                    |                       |                                      |
| Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the ann. rental or capital value exceeds £250,000.          |        |                            | ✓       |                    |                       |                                      |
| Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value does not exceed £250,000 |        |                            |         |                    |                       | ED of Finance, Assets & Regeneration |
| <b>FUNCTION</b>   | Leader | <u>Lead Cabinet Member</u> | 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                                  |        |                            | ✓       |                    |                       |                                      |
| 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        |        | ✓                          |         |                    |                       |                                      |
| Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value not exceeding £10,000                               |        |                            |         |                    |                       | ED of Finance, Assets & Regeneration |
| Authorise rent subsidy to third party on Authority owned land   |        |                            | ✓       |                    |                       |                                      |
| <b>Grants</b>   |        |                            |         |                    |                       |                                      |
| Agree service level agreements and service level agreement funding in respect of voluntary organisations  |        |                            | ✓       |                    |                       |                                      |

<sup>30</sup> S32 Smallholdings & Allotments Act 1908

<sup>31</sup> Planning permission may be required



|   |        |                                   |         |   |  |                       |
|---|--------|-----------------------------------|---------|---|--|-----------------------|
| Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations exceeding £10,000 pa  |        |                                   | ✓       |   |  |                       |
| Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £10,000 pa  |        | ✓                                 |         |   |  |                       |
| <b>Service Delivery</b>   |        |                                   |         |   |  |                       |
| Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio   |        | ✓                                 |         |   |  |                       |
| FUNCTION  | Leader | Lead Cabinet Member <sup>32</sup> | Cabinet | Joint Arrangements  | Other Local Authority  | Officer <sup>33</sup> |
| 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                   |
| <b>Commissioning &amp; Contracts</b>  |        |                                   |         |   |  |                       |
| Approve the means by which the Authority's services will be provided including through a local authority company, community interest company, private organisation, trust or public/private partnership |        |                                   | ✓       |   |  |                       |
| Arrange for any Executive Function to be undertaken by another local authority <sup>34</sup>  |        |                                   | ✓       |   |  |                       |
| Arrange for any Executive Function to be exercised jointly <sup>35</sup> with one or more local authorities through joint arrangements <sup>36</sup>  |        |                                   | ✓       |   |  |                       |

<sup>32</sup> As defined in Appendix A

<sup>33</sup> CE – Chief Executive, ED – Executive Director, ~~All – Member of Executive Board~~ or, Directors

<sup>34</sup> Reg 7 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

|   |        |  |         |                    |                       |   |
|---|--------|--|---------|--------------------|-----------------------|---|
| Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office <sup>37</sup>                                 | ✓      |  |         |                    |                       |   |
| 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 <sup>38</sup> | ✓      |  |         |                    |                       |   |
| FUNCTION  | Leader | <u>Lead Cabinet Member</u> <sup>39</sup> | Cabinet | Joint Arrangements | Other Local Authority | Officer <sup>40</sup>   |
| Represent (or arrange for a Cabinet Member or Officer to represent) the Authority as shareholder or member in a company in which the Authority holds an interest                                    | ✓      |  |         |                    |                       |   |
| Monitor the performance of contracts and service level agreements in respect of all non-internally provided housing services  |        |  |         |                    |                       | <u>MD of Place and Growth</u><br><u>ED of Place and Communities</u> |
| Monitor the performance of contracts and service level agreements in respect of all non-internally provided services  |        |  |         |                    |                       | CEO   |
| Accept tenders within budget and exceeding £100,000 and authorise entering into the related Contract <sup>41</sup>  |        | ✓  |         |                    |                       |   |
| 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 <sup>42</sup>   |        |  | ✓       |                    |                       |   |
| Approve waiver to Contract Rules where the value does not exceed £100,000 <sup>43</sup>   |        |  |         |                    |                       | All   |

<sup>35</sup> Reg 11 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

<sup>36</sup> As described in Article 11

<sup>37</sup> Reg 11 (3A) Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

<sup>38</sup> Reg 11 (3B) Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

<sup>39</sup> As defined in Appendix A

<sup>40</sup> CE– Chief Executive, ED – Executive Director, DC – Director Commissioning, All – Head of Paid Service Executive Directors, Directors

<sup>41</sup> 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.

<sup>42</sup> In accordance with Rule 6.2.1 Contract Rules

|  |        |  |         |                    |                       |  |
|--|--------|--|---------|--------------------|-----------------------|--|
| Approve waiver from Contract Rules where the value exceeds 100K and an urgent decision is required <sup>44</sup> |        |  |         |                    |                       | CEO  |
| <b>Local Strategic Partnerships</b>  |        |  |         |                    |                       |  |
| Establish a policy or strategic framework for a partnership  |        |  | ✓       |                    |                       |  |
| Establish a partnership's annual work programme and make in year changes   | ✓      | ✓  |         |                    |                       |  |
| Implement an agreed policy or strategy   |        |  |         |                    |                       | All  |
| <b>FUNCTION</b>  | Leader | <u>Lead Cabinet Member</u> <sup>45</sup> | Cabinet | Joint Arrangements | Other Local Authority | Officer <sup>46</sup>  |
| <b>Neighbourhood Plans</b> <sup>47</sup>   |        |  |         |                    |                       |  |
| Designate neighbourhood area/forum   |        |  | ✓       |                    |                       |  |
| Adopt a neighbourhood development plan and a neighbourhood development order                                     |        |  | ✓       |                    |                       |  |
| <b>Localism Act</b>  |        |  |         |                    |                       |  |
| <u>Determine applications to register Assets of Community Value</u>  |        |  |         |                    |                       | <u>Director of Planning, Environmental &amp; Regulatory services</u> |
| <u>Determine Appeals against applications to register Assets of Community Value</u>                              |        |  |         |                    |                       | <u>ED of Place and Communities or MO</u>                             |
| <b>Constitution &amp; Democratic Process</b>   |        |  |         |                    |                       |  |
| Make Key Decision <sup>48</sup>  |        | ✓ <sup>49</sup>                          | ✓       |                    |                       | Head of  |

<sup>43</sup> In accordance with Rule 6.2.2 Contract Rules

<sup>44</sup> In accordance with Rule 6.2.1 Contract Rules

<sup>45</sup> As defined in Appendix A

<sup>46</sup> CE– Chief Executive ED – Executive Director, ~~All~~ ~~Member of Executive Board~~ or , Directors

<sup>47</sup> See Neighbourhood Planning protocol agreed by Council 14 Dec 2015

<sup>48</sup> As defined in Article 13.

|   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|
|   |   |   |   |   |   | Property & AM or ED of Finance, Assets & Regeneration |
| Make urgent Key Decision <sup>50</sup>  | ✓ |   | ✓ |   |   | CEO   |
| Respond to call-in of a decision <sup>51</sup>  | ✓ | ✓ | ✓ | ✓ | ✓ | All   |
| Respond to petition to Council  |   | ✓ |   |   |   |   |
| Appoint and remove Cabinet Members and decide their portfolios  | ✓ |   |   |   |   |   |
| Establish Cabinet Committee or working group  |   |   | ✓ |   |   |   |
| Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6   | ✓ |   |   |   |   |   |
| Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4   |   | ✓ | ✓ |   |   |   |
| Undertake such specific Executive Function as may be allocated from time to time by the Leader  | ✓ | ✓ | ✓ |   |   | All   |
| Undertake such specific Executive Function as may be delegated from time to time by Cabinet   |   |   |   |   |   | ✓   |
| Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet  |   |   | ✓ |   |   |   |
| Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by a Cabinet Member   |   | ✓ |   |   |   |   |
| Undertake any Executive Function which is delegated to an Officer where the <del>Lead-Cabinet</del> Member directs it should be exercised by themselves in accordance with Rule 3E.14 |   | ✓ |   |   |   |   |
| Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet  |   |   | ✓ |   |   |   |
| Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to a  |   | ✓ |   |   |   |   |

<sup>49</sup> ~~Lead-Cabinet~~ Member in respect of the spending on individual elements of the Cheltenham Transport Plan

<sup>50</sup> 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.

<sup>51</sup> Whoever took the decision will respond

|  |        |                                    |         |   |   |         |
|--|--------|------------------------------------|---------|---|---|---------|
| Cabinet Member   |        |                                    |         |   |   |         |
| Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act  | ✓      |                                    |         |   |   |         |
| Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next Cabinet meeting.                           | ✓      |                                    |         |   |   |         |
| Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree <sup>52</sup> | ✓      |                                    |         |   |   |         |
| <b>FUNCTION</b>  | Leader | <u>Lead<br/>Cabinet<br/>Member</u> | Cabinet | Joint<br>Arrangements                                 | Other Local<br>Authority  | Officer |
| <b>Legal Services</b>  |        |                                    |         |   |   |         |
| Undertake the role and functions of the Authority's chief legal officer and provide the Authority's legal service  |        |                                    |         |   | <u>Subject to<br/>the terms of<br/>the<br/>delegation<br/>agreement<br/>to<br/>Tewkesbury<br/>Borough<br/>Council<br/>TBC</u><br>53 |         |
| <b>Waste</b>   |        |                                    |         |   |   |         |
| Undertake functions of the Authority in respect of waste collection, recycling and street cleansing except for those functions reserved to the Authority <sup>54</sup>                   |        |                                    |         | <u>Subject to the<br/>terms of the<br/>delegation</u> |   |         |

<sup>52</sup> 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

<sup>53</sup> ~~Subject to the terms of the delegation agreements to Tewkesbury BC~~

|  |  |  |  |   |  |  |
|--|--|--|--|---|--|--|
|  |  |  |  | <u>agreement with</u><br><u>UbicoGJWC</u> <sup>56</sup> |  |  |
|--|--|--|--|---|--|--|

<sup>54</sup> See CE functions in Table 6

<sup>56</sup> ~~Subject to the terms of the delegation agreement to the Glos Joint Waste Committee~~

### ADDITIONAL DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

3E.17 All Executive Functions, other than those allocated in Table 5 of this Part 3E, are delegated to the Chief Executive, Member of the Executive ~~Board~~ Directors, Directors and the Director of One Legal as set out in Table 6 below.

3E.18 In addition, the Chief Executive, ~~Members of the Executive~~ Directors ~~Board~~ and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member<sup>56</sup>.

**Table 6**

| <b>Chief Executive</b>  |  |
|---|--|
| <b>Function</b>   | <b>Condition</b>   |
| 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 <sup>57</sup> in respect of an Executive Function (excluding a key decision <sup>58</sup> ) in a situation where there is not sufficient time for a report to be considered by the Leader, Cabinet or <u>Lead-Cabinet</u> Member. | Wherever possible this shall be done in consultation with the Leader and <u>Lead-Cabinet</u> 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 <sup>59</sup>  | 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 <sup>60</sup>  |  |
| Approve transformational change, cultural and organisational development strategy and associated policies   | Except those relating to terms and conditions of employment <sup>61</sup> of Executive Officers  |

<sup>56</sup> Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

<sup>57</sup> As defined in Article 13.

<sup>58</sup> The Chief Executive may take an urgent key decision in accordance with Table 5 and Rule 16 Access to Information Rules (Part 4E)

<sup>59</sup> See Appendix F for Proper and Statutory Officer appointments

<sup>60</sup> s113 LGA 1972

<sup>61</sup> This is a non-Executive Function and is delegated in Part 3D

| <b>Executive Directors and Directors</b>  |   |
|---|---|
| <b>Function</b>   | <b>Condition</b>  |
| 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  | Where the Chief Executive is absent or unable to act through conflict of interest or otherwise. This Function falls to the Executive Director who is deputising for that period |
| Undertake emergency planning and civil defence functions  |   |
| <b>Function</b>   | <b>Condition</b>  |
| Functions in respect of service areas and matters allocated in Appendix A   | 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              |
| <b>Director of One Legal</b>  |   |
| <b>Function</b>   | <b>Condition</b>  |
| To authorise Officers to represent the Authority before a court or tribunal pursuant to: -<br>(a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: -<br>(i) Section 223 of the Local Government Act 1972<br>(ii) Section 60 of the County Courts Act 1984<br>(b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007<br>(c) The Lay Representatives (Rights of Audience) Order 1999 |   |
| <b>Chief Executive</b>  |   |
| <b>Function</b>   | <b>Condition</b>  |
| In respect of joint waste: authorising changes to the inter   |   |



|   |  |
|---|--|
| <p>authority agreement<sup>62</sup><br/>budget setting;<br/>service charges;<br/>collection and disposal methods and policy changes to such collection and disposal methods;<br/>procurement decisions in respect of the Functions;<br/>enforcement proceedings or other legal action in respect of the Functions and corporate media communications.</p> |  |
|---|--|

---

<sup>62</sup> Dated 1 April 2013

This page is intentionally left blank

**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.

| <b>Designation</b>     | <b>Relevant Legislation</b>  |
|------------------------|--|
| <b>CHIEF EXECUTIVE</b> |  |
| 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<br>(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)   |
| Electoral Registration Officer and Returning Officer  | Ss 3 and 4 of Local Government (Contracts) Act 1997  |
| 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 |
| <b>MONITORING OFFICER</b>   |  |
| 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   | S.93 Building Act, 1984 (Authentication of documents)   |
| 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. |
| <b>EXECUTIVE DIRECTOR OF FINANCE, ASSETS AND REGENERATION</b>  |   |
| 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 Council.                        | S.151 Local Government Act, 1972  |
|  | S 6 Local Government and Housing Act 1989   |
| 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<br>(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, where applied to any reference in legislation to Borough Surveyor or Surveyor | All legislation prior to 1 April, 1972   |
| <b>EXECUTIVE DIRECTOR OF PLACE AND COMMUNITIES</b>  |  |
| Proper Officer  | S.47 National Assistance Act 1948 (Orders dealing with elderly, infirm etc )   |
| Proper Officer  | Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000                    |
| 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)      |
| Proper Officer  | Local Government Act 1972 (records of listed buildings)                        |

## **PROTOCOL FOR WEBCASTING, FILMING AND RECORDING OF COUNCIL MEETINGS**

### **Background**

~~As part of its open and transparent culture the Authority encourages Both Local Authorities and the Ministry of Housing, Communities & Local Government (MHCLG) have been exploring ways in which residents can be encouraged to participate in local democracy through the by filming and recording of council meetings, enabling. The main purpose of webcasting has been to give~~ members of the public the chance to view meetings as they happen without having to attend in person.

Webcasting and the retention of film on Cheltenham Borough Council's YouTube channel does not replace the formal record of the meeting and the decisions made. By law ~~the~~ the only formal record of any meeting of a Local Authority is its minutes and agendas which are required to be maintained and retained for a number of years.

The aim of this protocol is to help members of the press and public to understand the council's operating procedure for filming/webcasts and assist them in filming, audio-recording, taking photographs and using social media, to report the proceedings of all meetings of Cheltenham Borough Council that are open to the public.

### **Protocol**

#### **Webcasting**

The council will live stream on the Cheltenham Borough Council's YouTube channel and website ('webcasting') and record for subsequent transmission all of its meetings of Full Council, Cabinet, and the Planning Committee, Licensing Committee, Overview and Scrutiny Committee, Audit, Compliance and Governance Committee, Standard Committee and relevant sub-committees which held within the Council Chamber<sup>1</sup>. Fixed cameras are located within the Council Chamber which will be used for this purpose.

This Protocol has been agreed to assist the conduct of webcast meetings and to ensure that in doing so the council is compliant with its obligations under the Data Protection Act 2018, the Human Rights Act 1998 and any subsequent legislation.

Accordingly, the following will apply to all meetings to be webcast by the council.

#### **Main Provisions**

1. The Chair of the meeting has the discretion to terminate or suspend the webcast if continuing to webcast would prejudice the proceedings of the meeting. This may include, but is not restricted to:-
  - (a) During the management of public disturbance;
  - (b) When the proceedings of the meeting are suspended for any reason;
  - (c) During consideration of exempt matters when the public and press had been excluded from the meeting.

---

<sup>1</sup>This may be extended to include Cabinet and other committee meetings at the council's discretion

2. No exempt or confidential agenda items shall be webcast.
3. Anything that is outside the scope of the meeting will not be filmed. This may include but is not limited to reaction shots or walks out. In these cases, the officer managing the webcast will select a camera shot of the Chair of the meeting.
4. Young people under the age of 18 will not be filmed.
5. As part of the process for registering to speak at any-meeting which will be live streamed Council meeting or Planning Committee, members of the public who indicate they wish to speak will be advised that the meeting will be live streamed and a recording of the meeting will be available on YouTube. If an attendee does not wish to be filmed whilst speaking to the committee, the officer managing the webcast will:
  - Give guidance on the best place to sit;
  - Ensure no close-up images of the attendee will be taken; and
  - If the attendee is speaking focus the camera on the Chair.
6. The editing of content should only be undertaken if there is a legal reason, for instance if confidential personal information is inadvertently disclosed, if defamatory comments are made, or if the name of a person in witness protection was divulged by a public speaker. The editing of content may also be authorised in exceptional circumstances such as a person being taken ill during a meeting. A log will be maintained of webcasts where content has been edited. The Head of Paid Chief Executive Service and/or Monitoring Officer will, in consultation with Group Leaders, make the final decision on editing any webcast or filmed material to be broadcast or published in connection with any council meeting. The reason for any decision to edit a webcast or filmed material will be published.
7. Should a webcast be halted for a technical reason the officer managing the webcast will, as soon as reasonably practicable inform the Head of Paid Service Chief Executive and/or Monitoring Officer so they can disseminate this information to political group leaders including an explanation of what went wrong, what is being done to recover any lost data and how we will mitigate issues in the future.
8. Any elected Member or Officer who is concerned that, as a result of being webcast, they might be at risk of physical or psychological abuse, they should raise their concerns, in advance of the meeting, with the Chief Executive and or Monitoring Officer who shall consider what mitigating actions may be put in place.

### **Agenda front sheets and signage at meetings**

On the front of each agenda for meetings that will be webcast, and on signs inside and outside of the Council Chamber, there will be the following notice:



**Webcasting Notice**

This meeting may be filmed by the council for live and/or subsequent broadcast online at [https://www.youtube.com/channel/UCuL1a\\_5VePrG5ACQOAWwLIQ](https://www.youtube.com/channel/UCuL1a_5VePrG5ACQOAWwLIQ). At the start of the meeting the Chair will confirm if all or part of the meeting will be filmed. The footage will be on the website and on the YouTube channel for a period of ~~six months~~four years. ~~A record of it will also be retained for four years in accordance with the council's data retention procedures.~~ The images and sound recording may be used for training purposes within the council.

If you make a representation to the meeting you will be deemed to have consented to be filmed. By entering the Chamber you are also consenting to be filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

**Planning and Licensing Committee Meetings**

In any correspondence notifying supporters or objectors of the meeting date on which a proposal will be heard, the following advice will be included:

Please note that council meetings may be filmed for live or subsequent broadcast online by the council.

**Conduct of meetings**

At the start of each meeting to be filmed by the council, the following announcement will be made by the Chair:

I would like to remind everyone present that this meeting will be filmed by the council and live streamed on the internet and will be capable of repeated viewing.

If you are seated in the Chamber it is possible that the cameras will capture your image. By your presence, you are deemed to consent to be filmed and to the use of those images and sound recordings for webcasting and/or training purposes. If you address the Committee your contribution will be recorded and broadcast unless this is during a period when the meeting is in private session, as permitted by the Access to Information provisions.

As the Chair of the meeting, I can, at my discretion, terminate or suspend filming, if in my opinion, continuing to do so would prejudice the proceedings of the meeting or if I consider that continued filming might infringe the rights of any individual or breach any statutory provision.

**Cessation of webcasting for private sessions**

No part of any meeting will be webcast after Members have resolved to exclude the press and public because there is likely to be the disclosure of exempt or confidential information. The Democratic Services Officer will check that filming and/or recording of the meeting has ceased and will confirm this to the Chair of the meeting before any discussion of exempt or confidential matters is commenced.

**Storage and retention of webcasts**

Webcast meetings will be recorded and broadcast on the internet. All ~~archived~~ webcasts will then be available to view for a period of ~~six months~~four years after which they will be

~~deleted. Recordings of meetings will be retained~~ in accordance with data retention procedures.

In addition to the provision regarding the editing of content detailed previously, archived webcasts shall only be removed from the website and/or YouTube channel ~~within the first six months~~ if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision, for example, Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.

A log will be maintained of webcasts where content has been removed within the first six months. The ~~Head of Paid Service~~Chief Executive and/or Monitoring Officer will, in consultation with Group Leaders, make the final decision on removing any webcast ~~within the first six months of any council meeting~~. The reason for any decision to edit a webcast or filmed material will be published.

## Copyright notice

The actual webcasts and archived material, and copyright therein, remain the property of the Council, and the right to copy, issue, rent, perform, communicate or adapt any of the webcast or archived material is restricted as follows:

- (i) Subject to (ii) and (iii) below, any person may copy and use webcast material or part thereof provided that the facility is not used in a way that otherwise breaks the law and that the whole agenda item is displayed.
- (ii) The use of any webcast involving the alteration or editing of the material which results in changing the message or context is not permitted without the prior written approval of the Monitoring Officer.
- (iii) The use of webcast for commercial purposes involving re-use of the material is not permitted, unless the prior written approval of the Monitoring Officer is obtained.

## Other filming or recording of meetings by the public or press

The press and public are entitled to film, photograph, audio-record or broadcast any public meetings of the council. Those undertaking these activities may do so via social media of any kind. Therefore, users of blogs, Twitter, Facebook, YouTube etc. and individuals with their own website are able to record and stream meetings.

There is no requirement to ask permission to record a meeting. However, any person wishing to carry out this activity is requested to let Democratic Services (contact details below) know in advance so that all necessary arrangements can be made for the meeting.

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. It is not permitted for oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting.

The majority of Cheltenham Borough Council's meetings are open to members of the public. However, meetings cannot be filmed or recorded when it is agreed to formally exclude the press and public from the meeting due to the confidential/exempt nature of the business to be discussed.

Those undertaking these activities must not act in a disruptive manner; this could result in

expulsion from the meeting. Essentially, this could be any action or activity which disrupts the conduct of the meeting. Examples can include:-

- Moving to areas outside the areas designated for the public/press without the consent of the Chair;
- Excessive noise in recording or setting up or re-setting equipment during the debate/discussion
- Intrusive lighting and use of photography; and
- Asking people to repeat statements for the purposes of filming or recording.

More generally the law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media). Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

Those filming or recording proceedings shall not edit the recording in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the council. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being filmed/recorded.

Recording equipment can be left in a public meeting room without the person recording being present; however, recording will be suspended if a resolution is passed to exclude the public or if the Chair suspends the meeting due to disorderly conduct. It is therefore suggested that the person doing the recording remains in the meeting. Cheltenham Borough Council takes no responsibility for any unsupervised equipment.

### **Further questions & contact details**

If you have any questions on the issue of filming/recording of meetings please contact Democratic Services on 01242 264246 or email [democratic.services@cheltenham.gov.uk](mailto:democratic.services@cheltenham.gov.uk)

This page is intentionally left blank