

Cheltenham Borough Council Council

Meeting date: 17 June 2024

Meeting time: 2.30 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillors Paul Baker (Chair), Dr David Willingham (Vice-Chair), Frank Allen, Glenn Andrews, Victoria Atherstone, Adrian Bamford, Garth Barnes, Dilys Barrell, Graham Beale, Angie Boyes, Jackie Chelin, Barbara Clark, Julia Chandler, Flo Clucas, Mike Collins, Ashleigh Davies, Chris Day, Iain Dobie, Jan Foster, Juan Carlos Garcia Clamp, Steve Harvey, Rowena Hay, Sandra Holliday, Martin Horwood, Peter Jeffries, Tabi Joy, Alisha Lewis, Cathal Lynch, Andy Mutton, Tony Oliver, Ben Orme, Helen Pemberton, Richard Pineger, Julie Sankey, Stan Smith, Dr Steve Steinhardt, Izaak Tailford, Julian Tooke, Simon Wheeler and Suzanne Williams

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Contact: democraticservices@cheltenham.gov.uk

Phone: 01242 264 246

1 Apologies

2 Declarations of interest

3 Minutes of the last meeting (Pages 3 - 18)

Minutes of the Annual and Selection Council meeting held on 20 May 2024.

Minutes of the Extraordinary meeting held on 20 May 2024.

4 Communications by the Mayor

5 Communications by the Leader of the Council

6 To receive petitions

7 Public Questions

These must be received no later than 12 noon on Thursday 6 June

8 Member Questions

These must be received no later than 12 noon on Thursday 6 June.

9 Housing Transition Governance Arrangements and Revisions to the Constitution (Pages 19 - 84)

Report of the Leader

10 Capital Investment to reduce the energy usage at Leisure@Cheltenham (Pages 85 - 92)

Report of the Cabinet Member for Climate Emergency

11 Council Appointments

Joint Strategic Community Infrastructure Levy Joint Committee – (Leader and Cabinet Member)

Gloucestershire Economic Strategy Scrutiny Committee (scrutiny of the City Region Board) – (Member and Substitute Member nomination required)

12 Notices of Motion

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

Gareth Edmundson
Chief Executive



Cheltenham Borough Council

Council

Minutes

Meeting date: 20 May 2024

Meeting time: 2.30 pm - 2.55 pm

In attendance:

Councillors:

Paul Baker (Vice-Chair), Frank Allen, Glenn Andrews, Victoria Atherstone, Adrian Bamford, Garth Barnes, Dilys Barrell, Graham Beale, Angie Boyes, Jackie Chelin, Barbara Clark, Julia Chandler, Flo Clucas, Ashleigh Davies, Chris Day, Iain Dobie, Jan Foster, Juan Carlos Garcia Clamp, Steve Harvey, Rowena Hay, Sandra Holliday, Martin Horwood, Peter Jeffries, Tabi Joy, Alisha Lewis, Cathal Lynch, Andy Mutton, Tony Oliver, Ben Orme, Helen Pemberton, Richard Pineger, Julie Sankey, Stan Smith, Izaak Tailford, Julian Tooke, Simon Wheeler, Suzanne Williams and Dr David Willingham

Also in attendance:

Claire Hughes (Director of Governance and Customer Services and Monitoring Officer) and Gareth Edmundson (Chief Executive)

1 Apologies

Apologies were received from Councillors Collins and Steinhardt.

2 Communications by the retiring Mayor

The Mayor thanked Members for making it such a pleasure to chair Council meetings over the past year, and also the Chief Executive and council officers – in particular Jennie Ingram and Democratic Services – for all their support. He gave special thanks to the Mayor's officer, Bob Bishop, on his retirement, saying that returning councillors and previous mayors would know him well for all his support over the years, particularly helping civic occasions to run smoothly. He said he would be much missed and wished him a happy retirement.

He went on to welcome all new Members to their first Council meeting, especially Councillors Pemberton and Day, representing Battledown ward, and wished the incoming Mayor every success for the municipal year ahead.

3 Election of Mayor 2024-25 (Chair of Council)

On behalf of the Council, the Leader thanked the Mayor for being an efficient Chair of Council and a superb Mayor.

She called on Councillor Harvey to move the motion proposing Councillor Baker as the new Mayor.

Councillor Harvey echoed the Leader's thanks, and said he was honoured to propose that Councillor Baker as Mayor of Cheltenham for the upcoming municipal year. Councillor Smith was happy to second the nomination, and added his thanks to the outgoing Mayor for his time in office..

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

The Mayor congratulated Councillor Baker 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 the office of Council Chair 2024-25.

4 Election of Deputy Mayor 2024-25 (Vice-Chair of Council)

The Mayor invited Councillor Atherstone to propose Councillor Dr David Willingham as Deputy Mayor for the upcoming municipal year. The motion was formally seconded by Councillor Boyes.

RESOLVED (unanimously) THAT

Councillor Dr David Willingham 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 Dr Willingham on his appointment and invited him to take his seat.

The Chief Executive asked the newly-elected Deputy Mayor to sign a declaration of acceptance of the office of Council Vice-Chair 2024-25.

5 Declarations of interest

There were none.

6 Minutes of the last meeting

The minutes of the Council meeting held on 18 March 2024 were approved as a true record by all Members who had attended, and signed accordingly.

7 Communications by the Mayor

The Mayor thanked all Members for their confirmation today, saying that being elected Mayor was an honour and privilege he would never have imagined when growing up in St Paul's. He was looking forward to getting out and about in Cheltenham's many different communities, and to supporting four fantastic local charities:

- Cheltenham Welcomes Refugees, of which he is a founding trustee;
- Aim Up, formerly St Vincent's and St George's Association, an amazing charity which works with disabled adults in the community;
- The Friends of Sandford Park, who have been instrumental in raising funds to improve the park;
- Cheltenham CCP (Caring for Communities and People), a well-established charity set up many years ago, to help people through homelessness, family breakdown and exclusion.

He said his charity committee has been up and running for some months and has many exciting events planned to raise money for the charities in the year ahead.

8 Appointment of the Leader of the Council

The Mayor invited Councillor Jeffries to formally propose Councillor Hay as Leader of the Council for the next four years. Councillor Jeffries said it gave him great pleasure to do so, and the motion was formally seconded by Councillor Joy.

RESOLVED (unanimously) THAT

Councillor Rowena Hay be appointed Leader of Cheltenham Borough Council for the ensuing four years

9 Communications by the Leader of the Council

The Leader thanked Members for electing her to this great role, which came with great responsibility, shared by all councillors. She thanked Bob Bishop, the Mayor's officer, wishing him well in retirement, and welcomed all new Members on both sides of the Chamber.

The Mayor added his thanks to Bob for his many years of service, and was sorry that he had chosen to retire now, just as he was taking office as Mayor.

10 To note the membership of the Cabinet, including the Deputy Leader

The Leader invited Members to note the membership of the Cabinet:

- Deputy Leader / Major Development and Housing Delivery – Councillor Jeffries
- Climate Emergency – Councillor Dobie
- Economic Development, Wellbeing and Culture – Councillor Horwood
- Finance and Assets – Councillor Lewis
- Housing and Customer Services – Councillor Clucas
- Planning and Building Control – Councillor Collins
- Safety and Communities – Councillor Atherstone
- Waste, Recycling and Public Realm – Councillor Tailford

The Mayor congratulated all new Cabinet members on their appointments.

11 To establish and appoint to the following committees

The Mayor invited Members to establish and appoint the committees and the nominations for Chairs and Vice-Chairs as set out in the supplement.

Members voted unanimously to approve the appointments and nominations.

12 To appoint the following Joint Committees (including substitutes)

The Mayor invited Members to appoint the joint committees as set out in the supplement, including substitutes.

Members voted unanimously to approve the appointments.

13 To appoint to the following Advisory Panels and Working Groups

The Mayor invited Members to appoint the Advisory Panels and Working Groups as set out in the supplement.

Members voted unanimously to approve the appointments.

It was noted that no vote was required for the remainder of the appointments to CIL, One Legal, Member Development Panel, Planning and Liaison Member Working Group, Budget Working Group, Asset Management Working Group and Member ICT.

14 To appoint to the following Member Champion roles

The Mayor invited Members to appoint to the Member Champion roles as set out in the supplement.

Members voted unanimously to approve the appointments

15 To receive petitions

There were no petitions.

16 Any other item the Mayor determines as urgent and which require a decision

There were no urgent items.

COMMITTEES OF THE COUNCIL

Planning Committee		
<i>11 Members</i>		
	LibDem	Green
1	Garth Barnes (Ch)	
2	Paul Baker (VCh)	
3	Frank Allen	
4	Glenn Andrews	
5	Adrian Bamford	
6	Barbara Clark	
7	Andy Mutton	
8	Tony Oliver	
9	Simon Wheeler	
10	Suzanne Williams	
11		Jan Foster

Licensing – Full Committee		
<i>10 Members</i>		
	LibDem	Green
1	David Willingham (Ch)	
2	Angie Boyes (VCh)	
3	Dilys Barrel	
4	Steve Harvey	
5	Helen Pemberton	
6	Richard Pineger	
7	Julie Sankey	
8	Steve Steinhardt	
9	Simon Wheeler	
10		Tabi Joy

Licensing Sub-Committee – Miscellaneous		
<i>5 Members</i>		
	LibDem	Green
1	Angie Boyes	
2	Helen Pemberton	
3	Julie Sankey	
4	Simon Wheeler	
5	David Willingham	

Audit, Compliance and Governance Committee		
<i>7 Members</i>		
	LibDem	Green
1	Adrian Bamford (Ch)	
2	Ben Orme (VCh)	
3	Chris Day	
4	Cathal Lynch	
5	Julian Tooke	
6	David Willingham	
7		Ashleigh Davies

Standards Committee		
<i>7 Members</i>		
	LibDem	Green
1	Garth Barnes	
2	Dilys Barrell	
3	Sandra Holliday	
4	Alisha Lewis	
5	Tony Oliver	
6	Julie Sankey	
7		Ashleigh Davies

Overview and Scrutiny Committee			
<i>10 Members</i>			
	LibDem	Green	PAB
1	Jackie Chelin (VCh)		
2	Frank Allen		
3	Graham Beale		
4	Chris Day		
5	Julia Chandler		
6	Juan Carlos Garcia Clamp		
7	Sandra Holliday		
8	Richard Pineger		
9		Tabi Joy (Ch)	
10			Stan Smith

Appointments and Remuneration Committee		
<i>9 Members</i>		
	LibDem	Green
1	Rowena Hay (Ch)	
2	Victoria Atherstone (VCh)	
3	Paul Baker	
4	Jackie Chelin	
5	Barbara Clark	
6	Juan Carlos Garcia Clamp	
7	Peter Jeffries	
8	Andy Mutton	
9		Jan Foster

Disciplinary Committee		
<i>5 Members</i>		
	LibDem	Green
1	Paul Baker	
2	Angie Boyes	
3	Julia Chandler	
4	Juan Carlos Garcia Clamp	
5	Julian Tooke	

Appeals Committee		
<i>5 Members</i>		
	LibDem	Green
1	Peter Jeffries	
2	Cathal Lynch	
3	Andy Mutton	
4	Helen Pemberton	
5	Izaak Tailford	

ADVISORY PANELS / WORKING GROUPS

Treasury Management Panel		
<i>8 Members</i>		
	LibDem	Green
1	Ben Orme (Ch)	
2	Frank Allen	
3	Adrian Bamford	
4	Jackie Chelin	
5	Flo Clucas	
6	Chris Day	
7	Julian Tooke	
8		Tabi Joy

Constitution Working Group		
<i>6 Members (inc. Leader as portfolio holder and 1 from each group)</i>		
	LibDem	Green
1	Julia Chandler	
2	Jackie Chelin	
3	Mike Collins	
4	Peter Jeffries	
5		Tabi Joy

Budget Scrutiny Working Group		
<i>7 Members</i>		
	LibDem	Green
1	Glenn Andrews	
2	Adrian Bamford	
3	Angie Boyes	
4	Barbara Clark	
5	Chris Day	
6	Julie Sankey	
7		Tabi Joy

Planning and Liaison Member Working Group		
<i>9 Members</i>		
	LibDem	Green
1	Frank Allen	
2	Paul Baker	
3	Garth Barnes	
4	Julia Chandler	
5	Jackie Chelin	
6	Martin Horwood	
7	Richard Pineger	
8	Julian Tooke	
9		Jan Foster

CIL Neighbourhood Panel		
<i>5 Members</i>		
	LibDem	Green
1	Glenn Andrews	
2	Paul Baker	
3	Barbara Clark	
4	Tony Oliver	
5		Ashleigh Davies

Joint Monitoring and Liaison Group – Building Control		
<i>2 Members (Cabinet Member + 1)</i>		
	LibDem	Green
1	Simon Wheeler	
2	Mike Collins	

Joint Monitoring and Liaison Group – One Legal		
<i>2 Members (Cabinet Member + 1)</i>		
	LibDem	Green
1	David Willingham	
2	Rowena Hay (Leader)	

Member Development Panel		
<i>At least 1 Member from each political group</i>		
	LibDem	Green
1	Jackie Chelin	
2	Helen Pemberton	
3		Ashleigh Davies

JOINT COMMITTEES

Joint District Strategic Planning Member Group		
<i>3 Members</i>		
	LibDem	Green
1	Mike Collins	
2	Rowena Hay	
3	VACANCY	

Gloucestershire Health O & S Committee		
<i>1 x co-optee from CBC and substitute</i>		
	LibDem	Green
1	Adrian Bamford	
2	Cathal Lynch (substitute)	

Gloucestershire Police and Crime Panel		
<i>1 x co-optee from CBC and substitute</i>		
	LibDem	Green
1	Victoria Atherstone	
2	Graham Beale (substitute)	

Gloucestershire Resources and Waste Partnership		
<i>2 Members (Cabinet + 1)</i>		
	LibDem	Green
1	Suzanne Williams	
2	Izaak Tailford	

CURRENT CABINET MEMBER WORKING GROUPS

Housing Supply		
<i>5 Members</i>		
	LibDem	Green
1	Glenn Andrews	
2	Paul Baker	
3	Barbara Clark	
4	Suzanne Williams	
5		Ashleigh Davies

Asset Management Working Group		
<i>7 Members</i>		
	LibDem	Green
1	Alisha Lewis (Ch)	
2	Victoria Atherstone (VCh)	
3	Glenn Andrews	
4	Barbara Clark	
5	Chris Day	
6	Tony Oliver	
7		Tabi Joy

MEMBER CHAMPIONS / ADVOCATES

Mental Health		
<i>Up to 4 Members</i>		
	LibDem	Green
1	Victoria Atherstone	
2	Dilys Barrell	
3	Izaak Tailford	
4		Ashleigh Davies

Safeguarding		
<i>Up to 4 Members</i>		
	LibDem	Green
1	Victoria Atherstone	
2	Jackie Chelin	
3	Helen Pemberton	
4		Tabi Joy

Refugee		
<i>Up to 5 Members</i>		
	LibDem	Green
1	Frank Allen	
2	Jackie Chelin	
3	Peter Jeffries	
4	Julian Tooke	
5		Tabi Joy

Cycling and Walking		
<i>Up to 4 Members</i>		
	LibDem	Green
1	Iain Dobie	
2	Helen Pemberton	
3	Richard Pineger	
4		Ashleigh Davies

Armed Forces Covenant		
<i>1 Member (external appointment)</i>		
	LibDem	Green
1	Steve Harvey	
	Julie Sankey (substitute)	

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Cheltenham Borough Council Council Minutes

Meeting date: 20 May 2024

Meeting time: 3.00 pm - 3.15 pm

In attendance:

Councillors:

Paul Baker (Vice-Chair), Frank Allen, Glenn Andrews, Victoria Atherstone, Adrian Bamford, Dilys Barrell, Graham Beale, Angie Boyes, Jackie Chelin, Barbara Clark, Julia Chandler, Flo Clucas, Ashleigh Davies, Chris Day, Iain Dobie, Jan Foster, Juan Carlos Garcia Clamp, Steve Harvey, Rowena Hay, Sandra Holliday, Martin Horwood, Peter Jeffries, Tabi Joy, Alisha Lewis, Cathal Lynch, Andy Mutton, Ben Orme, Helen Pemberton, Richard Pineger, Julie Sankey, Stan Smith, Izaak Tailford, Julian Tooke, Simon Wheeler, Suzanne Williams and Dr David Willingham

Also in attendance:

Claire Hughes (Director of Governance and Customer Services and Monitoring Officer) and Gareth Edmundson (Chief Executive)

1 Apologies

Apologies were received from Councillors Barnes, Collins, Oliver and Steinhardt.

2 Declarations of interest

There were none.

3 Appointment of Honorary Aldermen

The Chief Executive said that Council may confer the title of Honorary Alderman on persons who it considers have rendered eminent services to the Authority in their past roles as councillors. In Cheltenham, the longstanding criteria applied when conferring the title of Honorary Alderman is that the person has at least 16 years' service or is a past Mayor and Chair of the Council.

On this occasion, former Councillors Babbage, Britter, Fisher, Flynn and Seacome fall within the criteria.

The Leader put on record her thanks to all the councillors, and proposed that they be appointed Honorary Aldermen. Councillor Joy seconded the proposal, thanking the councillors for their long service.

RESOLVED (unanimously) that

- 1. the title of Honorary Alderman is conferred on former Councillors Matt Babbage, Nigel Britter, Bernard Fisher, Wendy Flynn and Diggory Seacome.**

4 Appointment of Honorary Freemen of the Borough

The Chief Executive said the title of Honorary Freeman of the Borough was conferred on persons considered to have rendered eminent and distinguished service to the borough of Cheltenham, and are nominated by group leaders. On this occasion, there are three nominees:

- Lesley Bonney
- Chun Kong
- Michael Ratcliffe MBE

The Leader formally proposed the nominees, and Councillor Joy seconded.

RESOLVED (unanimously) that:

- **The title of Honorary Freeman is conferred on Lesley Bonney, Chun Kong and Michael Ratcliffe MBE.**

Cheltenham Borough Council

Council – 17 June 2024

Housing Transition Governance Arrangements and Constitutional Updates

Accountable member:

Councillor Rowena Hay, Leader of the Council

Accountable officer:

Claire Hughes, Director of Governance and Customer Services (Monitoring Officer)

Ward(s) affected:

All

Key Decision: No

Executive summary:

The Cabinet decision in October 2023 to wind-up Cheltenham Borough Homes and to re-integrate housing services under Cheltenham Borough Council set a clear change in direction to the future delivery of housing services in Cheltenham. The decision was taken for following key reasons:

- To deliver efficiencies across the HRA and General Fund to help protect services and respond to the challenging financial environment created by austerity, the Covid-19 pandemic and an inflation-driven cost of living crisis.
- To drive greater delivery of homes to meet the challenge of a national housing crisis.
- To respond to changes in housing regulations.
- To harness opportunities to improve services to our residents by looking at ways in which we can be more joined up and deliver an improved tenure neutral offer to everyone.

Central to the proposals to wind-up CBH was a clear pledge to place the voice of tenants and leaseholders at the heart of our housing service. Ensuring that our tenants, leaseholders and shared ownership owners can have oversight of, and influence the service they receive will not just meet the test of the regulator but it underlines the administration's earlier commitment to put residents at the centre of our housing offer.

On 11 June Cabinet considered a paper setting out the proposals for the new governance arrangements

to reflect the return of housing management to CBC, which will take effect from 1 July 2024. These new arrangements are vital to establishing effective and robust governance, but also have wider importance in setting a framework that will help to facilitate and create ways in which our residents can play an essential part in helping to shape CBC's housing service.

The structure seeks to ensure effective engagement with tenants, leaseholders and shared ownership owners and provide members with the required level of oversight needed.

This paper builds on that report to Cabinet by seeking approval from Council to make changes to the constitution to reflect not only the new governance structure but also further amendments to the constitution that are required to facilitate the transition of housing services.

Recommendations:

1. Note the new governance arrangements as set out in the [Cabinet Report of 11 June](#).
2. Delegates the appointment of members to the Housing Cabinet Committee to Group Leaders.
3. Approves the consequential amendments to the constitution to reflect the new governance arrangements.
4. Approves the amendments to Parts 3D, 3E and 3F of the constitution as set out in appendices 4, 5 and 6.
5. Approves the updated contract procedure rules as set out in appendix 7.

1. Implications

1.1 Financial, Property and Asset implications

No direct financial or property implications resulting from these recommendations.

Signed off by: Gemma Bell, Director of Finance and Assets gemma.bell@cheltenham.gov.uk.

1.2 Legal implications

None arising directly from this report. The proposals will ensure the effective governance and democratic accountability of key strategic and operational housing functions, services and priorities for the Council.

Signed off by: legalservices@onelegal.org.uk

1.3 Environmental and climate change implications

The proposed governance arrangements do not mention how the effects on environment and climate change will be accounted for. As CBH is brought back into the Council, consideration needs to be given to how the CBH climate action plan and footprint will be incorporated with the broader approach being adopted by CBC. Particularly given that to bring the existing housing stock in line with net zero would require circa 4 times the current budget for CBH, which will alter the trajectory to achieving net zero by 2030. To this end, it is envisaged that the CBH decisions also be made subject to Climate Impact Assessment Tool following on from the transfer, to effectively identify and mitigate negative environmental implications.

Signed off by: Maizy McCann, Climate Emergency Officer, Maizy.mccann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Increasing the number of affordable homes through our £180m housing investment plan
- 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

An equalities impact assessment screening questionnaire has been completed and is attached at Appendix 2.

2 Background

2.1 In October 2023 a Cabinet decision was taken that authorised the Chief Executive, Executive Director for Finance, Assets and Regeneration, the Corporate Director and Monitoring Officer, and the Housing Partnership Manager to undertake the required review to support the Leader in deciding to wind-up Cheltenham Borough Homes (CBH).

2.2 The decision to re-integrate housing services under Cheltenham Borough Council set a clear change in direction to the future delivery of housing services. The decision was taken for the following key reasons:

2.2.1 To deliver efficiencies across the HRA and General Fund to help protect services and respond to the challenging financial environment created by austerity, the Covid-19 pandemic and an inflation-driven cost of living crisis.

2.2.2 To drive greater delivery of homes to meet the challenge of a national housing crisis.

2.2.3 To respond to changes in housing regulations.

2.2.4 To harness opportunities to improve services to our residents by looking at ways in which we can be more joined up and deliver an improved tenure neutral offer to everyone.

2.3 Central to the proposals to wind-up CBH was a clear pledge to place the voice of tenants and leaseholders at the heart of our housing service. Ensuring that our tenants and leaseholders can have oversight of, and influence the service they receive will not just meet the test of the regulator but it underlines the administration's earlier commitment to put residents at the centre of our housing offer.

2.4 In addition, the new regulation and regulatory process will require strong governance and understanding by elected members, in practice functioning as a management board. Members will be required to have, and be able to demonstrate they have, clear sight of the operation of the housing service. Therefore, as part of the transition it is necessary for the Council to consider what those governance arrangements should be.

2.5 On 11 June Cabinet considered a paper setting out the proposals for the new governance arrangements to reflect the return of housing management to CBC, which will take effect from 1 July 2024. These new arrangements are vital to establishing effective and robust governance, but also

have wider importance in setting a framework that will help to facilitate and create ways in which our residents can play an essential part in helping to shape CBC's housing service.

2.6 The structure seeks to ensure effective engagement with tenants, leaseholders and shared ownership owners and provide members with the required level of oversight needed.

2.7 This paper builds on that report to Cabinet by seeking approval from Council to make changes to the constitution to reflect not only the new governance structure but also further amendments to the constitution that are required to facilitate the transition of housing services.

3 Revised Governance Structure

3.1 The detail of the revised structure is set out in the Cabinet report on 11 June. However, by way of summary it includes the establishment of a new Housing Cabinet Committee, made up of 5 elected members, one of who will be the Cabinet Member for Housing, two tenant representatives, one leaseholder representative and one shared ownership representative.

3.2 The main role of the committee will be to:

- Monitor performance and delivery of the consumer standard including the new tenancy satisfaction measures.
- Monitor the impacts of investment in ensuring the Council maintains decent homes, fire and building safety and customer satisfaction.
- Receive and considering complaints data to inform service delivery.
- Have oversight of the risk register for housing services.
- Provide strong and effective connectivity between the Council and the Tenant Panel.

3.3 To reflect the need for the council to hear the voices of their tenants and to hear those voices loudly. It is essential that tenant involvement and engagement is one of the fundamental principles within its new governance arrangements. Therefore, alongside the committee we will establish a Tenant Panel and a separate Leaseholder/Shared Ownership Panel. These panels will create a space where involved tenants and leaseholders, can act as our scrutineers and critical friends, working with the Council to develop our plans, priorities and policies.

3.4 A diagram depicting the new structure is attached at Appendix 3

4 Statutory Appointments

4.1 As part of the consumer standards and the Housing Ombudsman Code of Practice the council is also required to nominate various officers and members who will have overall responsibility for the following areas:

- Health and Safety
- Consumer Standards and Complaints
- Member with responsibility for complaints

4.2 It is therefore recommended that the following appointments are made:

- Officer with responsibility for Health and Safety - Paul Jones, Deputy Chief Executive
- Officer with responsibility for Consumer Standards and Complaints – Claire Hughes, Director of Governance and Customer Services
- Member with responsibility for complaints – Cabinet Member with responsibility for Housing and Customer Services

4.3 Part 3F (Statutory and Proper Officer Appointments) of the constitution has been updated to reflect these officer appointments and Council are asked to approve those amendments (Appendix 4).

5 Constitutional Amendments

5.1 In order to facilitate the smooth transition of housing services back into CBC, and to ensure effective decision making can continue it has been necessary to review Part 3D (Officer Non-Executive Functions) and Part 3E (Executive Functions) of the constitution.

5.2 Whilst most decisions will fall within established operational delegations, some amendments were required, which Council are now asked to approve (see Appendices 5 and 6).

5.3 In addition to the housing related amendments, Council will note that some specific delegations around Building Control have also been added. These reflect our current practice but are included to provide additional clarity in the case of any legal proceedings.

6 Contract Procedure Rules

6.1 Historically both Cheltenham Borough Council and Cheltenham Borough Homes followed different Contract Procedure Rule and Financial Rules, with the biggest difference being the thresholds that were applied. In order to provide consistency across the organisation and to ensure that the council are compliant with the Transparency obligations an updated set of Contract Procedure Rules has been prepared and are now presented to Council for approval (Appendix 7).

6.2 Under the current Constitution the purchase of supplies, services and works with a value below £25,000 require a best value process. Over £25,000, a competitive process is required through the procurement e-portal via Publica Procurement and a formal contract is prepared by One Legal. Under the new rules it is proposed that the thresholds are as follows:

Amount	Route
£0-£24,999	No change except that if quotes are sought, they should be obtained through the self-service e-portal
Above £25,000 to £50,000	3 written quotes via the self-service e-portal. There will no longer be a requirement for a formal contract to be prepared by One Legal; instead, the standard terms and conditions currently applicable for purchases below £10,000 will be used. To remain compliant with the Transparency Obligations, all requirements above £25,000 must be published on Contracts Finder
Above £50,000;	A full competitive tender through Publica Procurement and the e-portal will be required. A contract will be prepared or reviewed and executed by One Legal.
Procurement over prescribed values (Currently £181,302 for supplies and services, £4,551,413 for works).	Prescribed legislative route

6.3 Council may also wish to note that current Procurement law is set for wide ranging transformation; with the Procurement Act 2023 coming into force on 28 October 2024. Therefore a full review of the current Procurement processes, regulations and obligations is being carried out the Procurement Team and it is expected that further changes to the Contract Procedure Rules will be proposed prior to go live in October.

7 Key risks

7.1 Key risks are identified in the risk register attached at Appendix 1

Report author:

Claire Hughes, Director of Governance and Customer Services – claire.hughes@cheltenham.gov.uk

Appendices:

- i. Risk Assessment
- ii. Equality Impact Assessment
- iii. Governance Structure
- iv. Part 3F (Statutory and Proper Officer Appointments)
- v. Part 3D (Officer Non-Executive Functions)
- vi. Part 3E (Executive Functions)
- vii. Contract Procedure Rules

Background information:

[Cabinet Report October 2023](#)

[Housing Transition Governance Arrangements](#) - June 2024

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
1	If the council does not have a governance structure that is fit for purpose, then it may not fulfill its statutory requirements in relation to the Housing Regulations	Director of Governance & Customer Service	4	4	16	Reduce	Implement an effective and fit for purpose governance structure. Review the structure after 12 months of operation	Director of Governance & Customer Service	July 2024 July 2025
2	If the council does not have a governance structure that provides input from tenants, leaseholder and shared ownership owners then it may fail to meet the requirements of the consumer standards	Director of Governance & Customer Service	4	4	16	Reduce	Implement an effective and fit for purpose governance structure. Review the structure after 12 months of operation	Director of Governance & Customer Service	July 2024 July 2025
3	If the council does not have a governance structure that is fit for purpose then it may result in an inability to identify areas of failure and areas of improvement	Director of Governance & Customer Service	4	4	16	Reduce	Implement an effective and fit for purpose governance structure. Review the structure after 12 months of operation	Director of Governance & Customer Service	July 2024 July 2025

Appendix 2: Equality Impact Assessment (Screening)

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: Claire Hughes	Service Area: Governance and Customer Services
Title: Housing Governance Arrangements	Date of assessment: 13 May 2024
Signature: C. Hughes	

b. Is this a policy, function, strategy, service change or project?

Other

If other, please specify: Update to Councils Governance arrangements

c. Name of the policy, function, strategy, service change or project

Update to Councils Governance arrangements

Is this new or existing?

New or proposed

Please specify reason for change or development of policy, function, strategy, service change or project

To reflect the return of the management of the councils housing stock to CBC

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:

- To ensure compliance with housing regulations and consumer standards
- Continually improve housing services
- Have a governance structure that is fit-for-purpose and facilitates the ability to identify areas of improvement
- Provide clear lines of accountability for housing services, particularly in the areas of compliance

Objectives:	To demonstrate our commitment to ensure full compliance with all legal, regulatory and statutory requirements.
Outcomes:	This structure will ensure that employees and members are aware of their roles and responsibilities with the governance framework and facilitate engagement with tenants, leaseholders and share ownership owners.
Benefits:	Demonstrating compliance with the councils legal and statutory responsibilities as a Landlord.

e. What are the expected impacts?

Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.	Yes
Do you expect the impacts to be positive or negative?	Positive

Please provide an explanation for your answer:

This governance structure may have potential positive impacts but at the current time this is unknown.

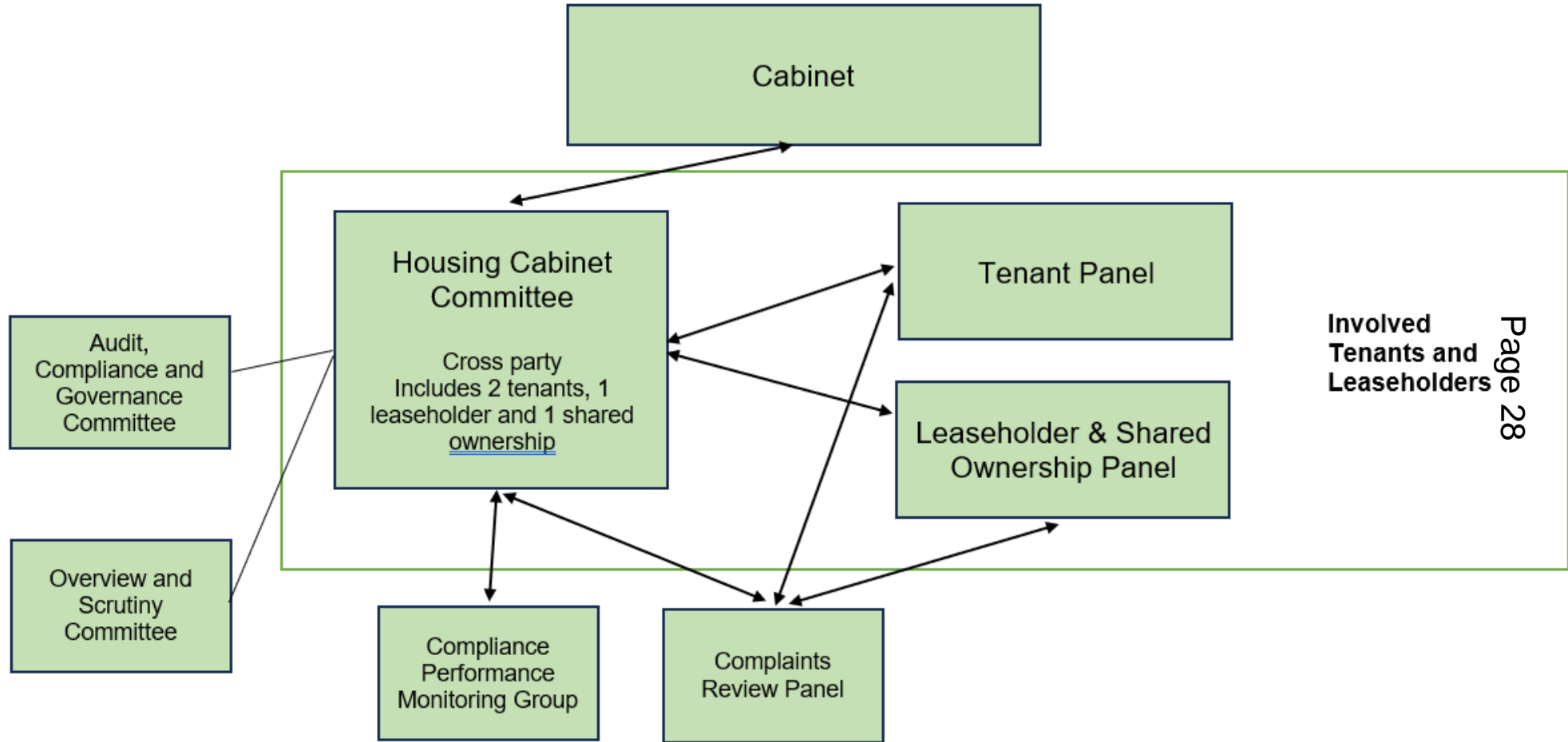
If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate

Stage Two required	No
Owner of Stage Two assessment	
Completion date for Stage Two assessment	

Please move on to Stage 2 if required ([intranet link](#)).

Appendix 3: Proposed Structure



PART 3F**STATUTORY AND PROPER OFFICER APPOINTMENTS****General**

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

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

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

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

Borough Treasurer	
Proper Officer	S.115 Local Government Act, 1972 (Payment of money by Council officers)
Proper Officer	S.146 Local Government Act, 1972 (Transfer of securities on change of Council area, etc)
S151 Officer	S.228 Local Government Act 1972 (accounts open for inspection)
S151 Officer	S.88 (8) Environmental Protection Act, 1990 (Certificates for fixed penalties)
Proper Officer	Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000
Proper Officer	Ss.229 and 234 Local Government Act, 1972 (Authentication of Documents etc)
Proper Officer	S.16 Local Government (Miscellaneous Provisions) Act 1976 (Requests for particulars of interests in land)
Proper Officer, where applied to any reference in legislation to Borough Surveyor or Surveyor	All legislation prior to 1 April, 1972
Proper Officer	S.93 Building Act, 1984 (Authentication of documents)
Electoral Registration Officer and Returning Officer	Ss 3 and 4 of Local Government (Contracts) Act 1997
<u>Health and Safety Lead</u>	<u>Housing and Regeneration Act 2008 as amended by the Social Housing (Regulation) Act 2023</u>
DIRECTOR OF GOVERNANCE AND CUSTOMER SERVICES (MONITORING OFFICER)	
Monitoring Officer	S.5 Local Government and Housing Act, 1989
Proper Officer	S.229 Local Government Act, 1972 (Authentication of documents etc)
Proper Officer	S.41 Local Government (Miscellaneous Provisions) Act 1976 (Certifying copy minutes etc.)
Proper Officer	Ss 28,29 and 30 Regulation of Investigatory Powers Act 2000
Proper Officer	Local Government Act 1972, Schedule 14 (certifying

	resolutions for legal proceedings)
Proper Officer	All purposes not otherwise designated, other than under the Constitution, or where the designated Proper Officer is unable to act, by reason of absence, conflict of interest or otherwise.
Proper Officer	S.47 National Assistance Act 1948 (Orders dealing with elderly, infirm etc)
Proper Officer	Public Health (Control of Disease) Act, 1984 (notifying communicable diseases)
Proper Officer	S.49(3)(a) of the Food Safety Act, 1990 (Authentication of Documents etc)
<u>Officer with responsibility for Consumer Standards and Complaints</u>	<u>Social Housing (Regulation) Act 2003 and Housing Ombudsman Code of Practice</u>
DIRECTOR OF PLANNING	
Proper Officer	Local Government Act 1972 (records of listed buildings)

Part 3D – Officer Non-Executive Functions

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

Table 4 (Non-Executive functions of Officers)

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

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

¹ s4 LG(MP)Act 1989

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

² Under s4 LG(MP) Act 1989

Executive Directors	
Function	Condition
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 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.

Executive Director for Finance, Assets and Regeneration <u>Deputy Chief Executive</u>	
Function	Condition
Undertake the functions of the Authority's Chief Financial Officer to ensure proper administration of the Authority's financial affairs	
Approve ex gratia and maladministration compensation payments up to £5,000 ³	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 <u>Statutory Officers</u> and Group Leaders to be informed of any change which the Director <u>Deputy Chief Executive</u> considers to be significant

³ S92 LGA 2000

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

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

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

Director of Communities and Economic Development <u>Planning</u>	
Function	Condition
Determine applications for: (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building & 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 ⁴	
Extinguish public right of way over land acquired for clearance ⁵	
Undertake functions relating to high hedges and protection of important hedgerows ⁶	

⁴ ss 247, 257, 258 TCPA 1990

⁵ s294 Housing Act 1981

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

Head of Public Protection	
Function	Condition
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	

<u>Head of Building Control</u>	
<u>Function</u>	<u>Condition</u>
<u>To pass or reject plans submitted to the Council under Building Regulations.</u> <u>To determine applications made to the Council for dispensations from or relaxations of Building Regulations.</u>	
<u>To issue or serve any appropriate notices under the Building Act 1984, including Notices in respect of dangerous structures.</u>	
<u>In consultation with the Director of One Legal, to prosecute or take other appropriate legal proceedings to secure compliance with the Building Act 1984 and under the Building Regulations.</u>	
<u>To set charges for all Building Regulation purposes together with power to vary such charges where it is considered to be in the Council's interests to do so.</u>	
<u>To participate in the Partner Authority Scheme whereby local Building Control bodies aid each other in providing a coordinated delivery mechanism to applicants.</u>	
<u>To issue completion certificates for works carried out under a Building Regulations and those requested in respect of premises designated under the Fire Precautions Act 1971.</u>	
<u>To act as "appropriate officer" for the purposes of the Party Walls etc. Act 1996.</u>	

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Part 3E – Executive Functions

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

Delegations

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

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

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

Officer Delegations - Special Provisions and Sub-delegations

3E.10 The Chief Executive, Deputy Chief Executive ~~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:

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

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

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

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

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

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

Sub-delegations

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

² As defined in Article 13

³ As defined in Article 13

⁴ See Tables 5 and 6

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

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

Table 5 Scheme of Delegation of Executive Functions

In this table the following abbreviations have the following meanings:

CEO: Chief Executive

~~DCEOED~~: Deputy Chief Executive~~Executive Director~~

MO: Monitoring Officer

All: Chief Executive, Deputy Chief Executive ~~Executive Directors~~ and Directors

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

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

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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Make bid for external funding or accept grant funding where the amount of funding is less than £500,000 and to accept the terms and conditions of that funding, if awarded.						All
Propose to Council a contribution to reserves above the level set in the Budget			✓			
Agree use of charging and trading powers		✓	✓			
Set fees and charges		✓				
Agree increase in fees and charges by more than inflation			✓			
Agree increase in fees and charges in line with inflation				✓		All
Assets and Property						
Agree asset management plan			✓			
Make compulsory purchase order (CPO)			✓			
Acquire land or property following CPO						ED of finance, assets & regeneration <u>DCEO</u>
Acquire other land or property or acquire a lease or tenancy agreement where the value exceeds £500,000			✓			Director of Finance and Assets or ED of Finance, Assets & Regeneration <u>DCEO</u> ⁶

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

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £500,000		✓				See footnote 6
Agree Void/Surplus Property Register in consultation with Asset Management Working Group						<u>ED of finance, assets & regeneration DCEO</u>
<u>Administration of Right to Buy</u>						<u>Director of Finance and Assets or Head of Housing Services</u>
<u>Administration of Shared Ownership</u>						<u>Director of Finance and Assets or Head of Housing Services</u>
<u>Approval of Shared Ownership Disposals including initial sales, staircasing, resale or staircasing our</u>		✓				<u>Director of Finance and Assets</u>
Dispose of or exchange land or property with a value exceeding £500,000 including at an undervalue			✓			
Dispose of or exchange land or property with a value exceeding £10,000 and not exceeding £500,000 including at an undervalue		✓				
Dispose of or exchange land or property with a value not exceeding £50,000 including at an undervalue						<u>ED of finance, assets &</u>

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
						regeneration DCEO
Dispose of or exchange land or property where there is a statutory right to acquire						ED of finance, assets & regeneration DCEO
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		✓				
Authorise the disposal of or change the use of (appropriate) public open space			✓			
Give public notice of a proposal to dispose of or change the use of public open space						ED of finance, assets & regeneration DCEO
Authorise the disposal of statutory allotments			✓			
Allocate and re-allocate all Authority owned assets, land and property between service areas	✓					
Authorise a change in use of Authority owned land or property		✓				
Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value exceeds £250,000.			✓			

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
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 DCEO
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 DCEO
Authorise rent subsidy to third party on Authority owned land			✓			
Grants						
Agree service level agreements and service level agreement funding in respect of voluntary organisations			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations exceeding £50,000 pa			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £50,000 pa		✓				
Service Delivery						

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓				
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible				Subject to the terms of the delegation agreement with Ubico	Subject to the terms of the delegation agreement to Tewkesbury Borough Council	All
Undertake internal transformation and improvement of the Authority's services						CEO
Commissioning and Contracts						
Approve the means by which the Authority's services will be provided including through a local authority company, community interest company, private organisation, trust or public/private partnership			✓			
Arrange for any Executive Function to be undertaken by another local authority ⁷			✓			
Arrange for any Executive Function to be exercised jointly ⁸ with one or more local authorities through joint arrangements ⁹			✓			

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

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

⁹ As described in Article 11

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓					
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office	✓					
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						ED of Place and Communities All
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 ¹⁰		✓				
Accept tenders and quotations within budget and not exceeding £100,000 and authorise entering into the related Contract						All
Approve waiver to Contract Rules where the value is in excess of £100,000 ¹¹			✓			

¹⁰ The decision to award a contract above £100,000, which is within budget, is not a key decision under Article 13. The key decision (i.e. the budget expenditure in excess of £100,000) is made at budget setting. The decision to enter into of a contract is to facilitate the expenditure approved at budget setting and, accordingly, is not a key decision.

¹¹ In accordance with Rule 6.2.1 Contract Rules

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Approve waiver to Contract Rules where the value does not exceed £100,000 ¹²						All
Approve waiver from Contract Rules where the value exceeds £100K and an urgent decision is required ¹³						CEO
Local Strategic Partnerships						
Establish a policy or strategic framework for a partnership			✓			
Establish a partnership's annual work programme and make in year changes	✓	✓				
Implement an agreed policy or strategy						All
Neighbourhood Plans¹⁴						
Designate neighbourhood area/forum			✓			
Adopt a neighbourhood development plan and a neighbourhood development order			✓			
Localism Act						
Determine applications to register Assets of Community Value						Director of Planning, Environmental & Regulatory services
Determine Appeals against applications to register Assets of Community Value						ED of Place and Communities or MO
Constitution and Democratic Process						

¹² In accordance with Rule 6.2.2 Contract Rules

¹³ In accordance with Rule 6.2.1 Contract Rules

¹⁴ See Neighbourhood Planning protocol agreed by Council 14 Dec 2015

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Make Key Decision ¹⁵		✓ ¹⁶	✓			Director of Finance and Assets or DCEO ED of Finance, Assets & Regeneration
Make urgent Key Decision ¹⁷	✓		✓			CEO
Respond to call-in of a decision ¹⁸	✓	✓	✓	✓	✓	All ✓
Respond to a 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						✓

¹⁵ As defined in Article 13.

¹⁶ Cabinet Member in respect of the spending on individual elements of the Cheltenham Transport Plan

¹⁷ 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.

¹⁸ Whoever took the decision will respond

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓			
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by a Cabinet Member		✓				
Undertake any Executive Function which is delegated to an Officer where the Cabinet Member directs it should be exercised by themselves in accordance with Rule 3E.14		✓				
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓			
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to a Cabinet Member		✓				
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓					
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 ¹⁹	✓					

¹⁹ Where there is no Group Leader consensus on an appointment or nomination or revocation or withdrawal of such, the matter will be referred to Council for decision

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Legal Services						
Undertake the role and functions of the Authority's chief legal officer and provide the Authority's legal service					Subject to the terms of the delegation agreement to Tewkesbury Borough Council	
Waste						
Undertake functions of the Authority in respect of waste collection, recycling and street cleansing except for those functions reserved to the Authority ²⁰				Subject to the terms of the delegation agreement with Ubico		

²⁰ See CE functions in Table 6

Additional delegation of Executive Functions to Officers

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

3E.20 In addition, the Chief Executive, Deputy Chief Executive ~~Executive Directors~~ and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member²¹.

Table 6

Function	Condition
Chief Executive	
Discharge any Executive Function which is delegated to an Officer under Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader, Cabinet or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
Authorise the use of the Authority's Coat of Arms and make arrangements for civic and twinning functions	
Authorise any Officer to or for any legal purpose including Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities	
Approve transformational change, cultural and organisational development strategy and associated policies	Except those relating to terms and conditions of employment ²² of Executive Officers
In respect of joint waste: <ul style="list-style-type: none"> • authorising changes to the inter authority agreement²³ • budget setting; • service charges; • collection and disposal methods and policy changes to such collection and disposal methods; • procurement decisions in respect of the Functions; • enforcement proceedings or other legal action in respect of the Functions and • corporate media communications. 	

²¹ Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

²² This is a non-Executive Function and is delegated in Part 3D

²³ Dated 1 April 2013

Function	Condition
Executive Directors Deputy Chief Executive and Directors	
Discharge any Executive Function which is delegated to an Officer (including the Head of Paid Service) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Head of Paid Service/ <u>Chief Executive</u>	<u>(Deputy Chief Executive only)</u> 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	
Functions in respect of service areas	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Arrangements or other local authority or other Officer under Part 3E
Director of One Legal	
<p><u>Power to take and pursue legal proceedings, to include instituting or defending any appeals or litigation and the instruction of external legal advisers or counsel.</u></p> <p>To authorise Officers to represent the Authority before a court or tribunal pursuant to: -</p> <p>(a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of:</p> <p>(i) Section 223 of the Local Government Act 1972</p> <p>(ii) Section 60 of the County Courts Act 1984</p> <p>(b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007</p> <p>(c) The Lay Representatives (Rights of Audience) Order 1999</p>	

**PART 4
Rules of Procedure**

PART 4I – Contract Rules

CONTENTS

	Section 1 – General Compliance and Scope
1.	Compliance
2.	Scope
	Section 2 – Common Requirements
3.	Calculation of Contract Values
4.	Authorised Officers and their responsibilities
5.	Contract Values
6.	Waivers
	Section 3 – Quotation and Tendering Process
7.	Advertising
8.	Suitability assessment and Pre-Qualification
9.	Electronic Tendering
10.	Dividing into Lots
11.	Submission and Opening of Tenders and Quotes
12.	Arithmetical Errors and Post Tender Clarification
13.	Evaluation
14.	Awarding Contracts
15.	Debriefing
	Section 4 – Contract Formalities
16.	Execution of contracts
17.	Records of Quotes, Tenders and contracts
18.	Bonds and Parent Company Guarantees
19.	Embedded Leases and Embedded Derivatives
	Section 5 – Specific Types of Tendering
20.	Framework Agreements and Dynamic Purchasing Systems
21.	Draw Down Agreements
22.	Collaborations and joint working
23.	Procurement by Consultants
24.	Nominated and Named Sub-Contractors
	Section 6 - Contract management and amendments to contracts during their term
25.	Amendments to Contracts
26.	Contract Management
27.	Definitions

SECTION 1: GENERAL COMPLIANCE AND SCOPE

1. COMPLIANCE

- 1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:
- 1.1.1 All relevant legislation, statutory guidance and codes e.g. Local Government Transparency Code;
 - 1.1.2 The relevant European procurement rules when applicable and whilst they have a direct effect in the UK (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
 - 1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation.
 - 1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code (which includes template documentation) and relevant policies.
- 1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, supplies and services.
- 1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds.
 - 1.2.2 Are appropriate for the purpose for which they are obtained.
 - 1.2.3 Ensure Best Value for Money.

2. SCOPE

- 2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works, the provision of services or the supply of supplies.
- 2.2. These Contract Rules do not apply to:
- 2.2.1 contracts of employment which make an individual a direct employee of the Authority;
 - 2.2.2 the acquisition, disposal, or transfer of land (which must be carried out by the Executive Director of Finance and Assets or any other officer with delegated authority) except where services or works are required by the Authority as part of the land transaction. E.g. development agreements;

- 2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;
- 2.2.4 purchases made at public auction;
- 2.2.5 the giving of grants.

SECTION 2: COMMON REQUIREMENTS

3. CALCULATION OF CONTRACT VALUES

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The estimated value is to be calculated as at the date the contract is first advertised or the Candidates are contacted, whichever occurs first.
- 3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.
- 3.4 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of these Contract Rules or the Regulations.

4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES

- 4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules, the Regulations and the Procurement Code.
- 4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:
 - 4.2.1 appraising the need for the expenditure and its priority;
 - 4.2.2 defining the objectives of the procurement;
 - 4.2.3 assessing the risks associated with the procurement and how to manage them;
 - 4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;

- 4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- 4.2.6 Checking to see if a corporate contract already exists. e.g. stationery contract.
- 4.2.7 Where the procurement involves a potential change to services provided by the Authority the Authorised Officer ensuring compliance with
- the Authority's duty to consult under Section 3 Local Government Act 1999
 - the Authority's duties under the Equality Act 2010.
 - The Public Social Value Act 2012 for contracts for services over the Threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves
- 4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.
- 4.2.9 for Quotes with a value of £25,000 or less, attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;
- 4.2.10 for Tenders with a value above £25,000, instructing the Borough's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;
- 4.2.11 ensuring that a purchase order is raised for the contract.
- 4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is considered and obtain legal advice before proceeding with inviting Tenders or Quotes.
- 4.4 Any procurement that is:
- over the Threshold and TUPE applies or
 - is over budget

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

5. **CONTRACT VALUES**

5.1 Where the total value for a procurement is within the values in the first column below, unless the Budget Holder procures via a compliant Framework Agreement, Draw Down Agreement or Dynamic Purchasing System, the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
<p>£24,999 £10,000 and below</p>	<p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by obtaining two written Quotes where possible and via the Portal where appropriate.</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p>
<p>Above £10,000 to £25,000</p> <p><u>Above £25,000 to £50,000</u></p>	<p>At least three written Quotes shall be sought through the Portal using the Request for Quote template.</p> <p>Where a procurement opportunity with a value estimated to be £25,000 or above is Advertised, it must also be advertised on Contract Finder using the Portal within 24 hours of any other adverts appearing together with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre-qualification stage is not permitted but appropriate suitability questions may be asked in the Request for Quote.</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p> <p>If the lowest Quote received exceeds £25,000, the contract shall not be awarded unless the contract is below the relevant Threshold and either</p>

	<ul style="list-style-type: none"> • a waiver is approved in accordance with Rule 6.1 or • approval is given by the Section 151 Officer. <p>Unless a waiver or approval of the Section 151 Officer is given, a new procurement will be required which must be carried out in accordance with the above £25,000 to Threshold procedures</p> <p>At least three formal quotes shall be sought through the Portal using the Request for Quote Template. The opportunity must be advertised on Contracts Finder.</p> <p>The Authorised Officer can also consider whether there is suitable framework agreement, dynamic purchasing system or existing contract to which the Authority is party that provides a mechanism for ordering goods, services and works.</p> <p>The framework or dynamic purchasing system standard terms and conditions must be agreed and approved and will form the basis of the contract.-</p>
<p>Above £50,001£25,000 to Threshold</p>	<p>A full competitive procurement shall be undertaken through the Portal using an Invitation to Tender.</p> <p>The opportunity must be advertised on Contract Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre-qualification stage is not permitted except for procurements of works contracts above the Threshold for supplies and services. A PAS91 pre-qualification questionnaire must be used.</p> <p>A formal written contract prepared or approved by the Borough Solicitor must be used.</p> <p>If the lowest Tender received exceeds the relevant Threshold then the contract shall not be awarded. A new procurement will be required which must be carried out in accordance with the Threshold and Above procedure.</p>

<p>Threshold and Above</p>	<p>A full competitive procurement shall be undertaken through the Portal using an Invitation to Tender.</p> <p>Procurement opportunities shall be advertised</p> <ul style="list-style-type: none"> • either in the Official Journal of the European Journal (OJEU) or using the UK e-notification service, as required by law • on Contract Finder within the time limit specified in the Regulations <p>The Procurement Adviser, in consultation with the Borough Solicitor, shall advise on the most appropriate procurement procedure to be used when conducting a procurement. The Regulations set out the permitted procurement procedures; the two most common procedures are:</p> <ul style="list-style-type: none"> • Open Procedure – a one stage process where anyone can submit a tender • Restricted Procedure – a two stage process where a Selection Questionnaire is used to shortlist Candidates who are then invited to submit a tender. <p>The following procedures can only be used in certain circumstances. See the Procurement Code for further detail.</p> <ul style="list-style-type: none"> • Innovation Partnership; This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is also an intention to include both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement. <p>A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.</p>

	<ul style="list-style-type: none"> • Competitive dialogue This can be used where either of the following apply: <ul style="list-style-type: none"> (i) the need of the Authority cannot be met without adaptation of readily available solutions; (ii) they include design or innovative solutions; (iii) specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them; (iv) the technical specifications cannot be established with sufficient precision with reference to a standard, European Technical Assessment, common technical specification or technical reference; (v) where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the Candidates that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure • Competitive Procedure with negotiation. This procedure can be used for the same reasons as competitive dialogue. With this procedure, the Authority can negotiate with Candidates who have submitted tenders to seek improved offers. A formal written contract prepared or approved by the Borough Solicitor must be used.
Light Touch Regime	Contracts involving the following supplies and services are subject to a 'light touch' regime if the value of the contract is below the prescribed Threshold;

	<ul style="list-style-type: none"> • Health, social and related services • Administrative social, educational, healthcare and cultural services • Compulsory social security services • Benefit services • Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services • Legal services • Other administrative services and government services • Provision of services to the community • Prison related services, public security and rescue services • Investigation and security services • International services • Postal services • Miscellaneous services listed in schedule 3 of the Public Contracts Regulations 2015 <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement.</p> <p>A formal written contract prepared or approved by the Borough Solicitor must be used.</p>
<p>Concessions</p>	<p>A concession contract is an agreement where Suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive consideration for their services solely through third party sources or partly through payment from the contracting authority along with income received from third parties e.g. a services Concession is where a Supplier has a contract to manage an Authority's catering services for its staff. The Authority does not pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the Concession making a profit is with the Supplier and not the Authority.</p> <p>A formal written contract prepared or approved by the Borough Solicitor must be used.</p>

Disposal of assets (other than land)	Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.
Disposal of Land	These Contract Rules and the Regulations apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (e.g. development agreements)

6. **WAIVERS**

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

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

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

or

6.1.2 The supplies to be purchased are proprietary articles or are sold only at fixed prices; or

6.1.3 The price of services or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or

6.1.4 Where in the opinion of the Authorised Officer in consultation with the Section 151 Officer and the Borough Solicitor considers that the services to be provided or the work to be executed or the supplies or materials to be purchased are urgent; (subject to the action being reported to the next Cabinet Meeting); or

6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:

- There is no satisfactory alternative; or
- Evidence indicates that there is likely to be no genuine competition; or
- It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;

or

6.1.6 Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; or

6.1.7 The works to be executed or the supplies or materials to be purchased can only be carried out or supplied by a statutory body.

6.2 These Contract Rules cannot be waived for the procurements above the relevant Threshold.

Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

6.2.1 Cabinet for contracts above £100,000 or the Head of Paid Service in consultation with the Leader of the Authority, the Section 151 Officer and the Borough Solicitor if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or

6.2.2 The Budget Holder (if authority to do so has been delegated to them in accordance with the Protocol for sub-delegation contained in Appendix D of the Constitution) or a Director, Executive Director/Chief Executive, in consultation with the Section 151 Officer and the Borough Solicitor if the contract does not exceed £100,000.

6.3 The decision to waive the contract rules and the reasons for it shall be recorded in the waiver form and where made under Rule 6.2.2 or the urgency procedure under Rule 6.2.1, the waiver shall be kept by the Borough Solicitor.

SECTION 3: QUOTATION AND TENDERING PROCESS

7 ADVERTISING (above £25,000.00)

7.1 Adverts shall include as a minimum:

- Date and time response to be received by the Authority
- How and to whom the Supplier must respond
- Any requirements for participating in the procurement

7.2 Where adverts are placed on Contract Finder unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's Portal free of charge when the advert is placed.

7.3 Opportunities with a value over the relevant Threshold must also be advertised either in the Official Journal of the European Union (OJEU) or using the UK e-notification service, as required by law.

8. **SUITABILITY ASSESSMENT (under Threshold) AND PRE-QUALIFICATION (above Threshold only)**

8.1 Authorised Officers are responsible for ensuring that all Candidates for a contract are suitably assessed. Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000.

Under Threshold

8.2 As part of the tender or quotation process the Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of :

- Suitability.
- Capability.
- Legal status; and
- Financial standing

8.3 The assessment questions must be

- relevant to the subject matter of the procurement and
- proportionate

8.4 For works and works related contracts above the Threshold for supplies and services, a pre-qualification stage is permitted. Officers must use form PAS91 or such other template required by law or by the Government.

Above Threshold

8.5 Procurements above the Threshold can use a pre-qualification stage. Officers must use the Selection Questionnaire form issued by the Government or form PAS91 for works or works related contracts or such other templates as required by law or by the Government

8.6 As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, Section 151 Officer and the Borough Solicitor.

8.7 Any Candidate eliminated from a procurement where a pre-qualification process has been undertaken must be notified following the evaluation of that stage in the process

8.8 As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, Section 151 Officer and the Borough Solicitor.

9. **ELECTRONIC TENDERING**

9.1 On 18th October 2018, electronic procurement and electronic communications became compulsory for above Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed using electronic means of communication in accordance with the requirements of the Regulations.

9.2 Except for procurements with a value of £10,000 or below, the procurement shall be carried out through the Portal unless otherwise permitted by these Contract Rules or by the Procurement Adviser and the Section 151 Officer. For quotes under £10,000 the Portal should be used were appropriate to do so.

9.3 The procurement may, following consultation with the Procurement Adviser and the Borough Solicitor, be carried out through an electronic auction where the Authorised Officer is satisfied that it is in the interests of the Authority to do so.

10 **DIVIDING TENDERS INTO LOTS**

10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject matter of such lots.

10.2 For an above Threshold procurement, if the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Regulation 84 Report.

10.3 Authorised Officers shall include in the notice and or tender documents whether:

- tenders can be submitted for one, for several or for all of the lots; or
- if there is a limit on the numbers of lots that can be tendered for.

- 10.4 Where more than one lot may be awarded to the same Candidate, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.
11. **SUBMISSION AND OPENING OF TENDERS AND QUOTES**
- 11.1 Tenders and Quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or Request for Quote.
- Tenders and Quotes (£10,000 and above)**
- 11.2 Tenders and Quotes must be submitted electronically via the Portal and the Authorised Officer shall ensure that the submissions are kept secure and un-opened until the specified date and time. The Authorised Officer shall carry out the opening of the Tenders and Quotes in accordance with instructions given by the Procurement Adviser.
- 11.3 An immediate record shall be made of the Tenders and Quotes received including names, amount of tender and the date and time of opening. Where the Portal is used, this information will be recorded automatically.
- 11.4 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Borough Solicitor, is satisfied that there is sufficient evidence that either;
- the Tender or Quote was despatched in sufficient time for it to have arrived before the closing date and time
 - Technical difficulties with the Portal prevented the Tender or Quote from being submitted before the closing date and time
12. **ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS**
- 12.1 Candidates can only alter their Tenders or Quotes after the date specified for their receipt (but before the formal acceptance of the Tender or Quote), where examination by officers reveals arithmetical errors or discrepancies that affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.
- 12.2 In an above Threshold procurement, the Authority must require Candidates to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.
- 12.3 All other post-tender clarifications shall:

12.2.1 only be undertaken following consultation with the Procurement Adviser and the Borough Solicitor; and

12.2.2 not disclose commercially sensitive information supplied by other Candidates.

13 EVALUATION

13.1 Tenders and Quotes shall be evaluated in accordance with the Regulations (where applicable) and the award criteria set out in the Invitation to Tender or Request for Quote.

13.2 All contracts shall be awarded based on the offer that represents the most economically advantageous, taking into account price and/or quality, to the Authority.

13.3 The award criteria shall be predetermined and listed in the Invitation to Tender or Request for Quote documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

13.4 For all contracts regardless of value, no person with a personal or financial interest in any of the Suppliers submitting a proposal should be involved in any way in influencing the decision as to which Supplier is to be awarded the contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.

13.5 Where Authorised Officers intend to carry out site visits, presentations or interviews as part of the evaluation process, this must be made clear in the invitation to tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the procurement documents.

14. AWARDING CONTRACTS

14.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote

14.2 Depending on what is being procured and whether or not it is an above Threshold procurement, the Most Economically Advantageous Tender/Quote can be assessed as follows;

- Price (i.e. the lowest bid)
- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs))

- Best Price/Quality Ratio. (the award criteria can include quality, including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender or Request for Quote.

- 14.3 A contract may only be awarded by an Awarding Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.
- 14.4 For contracts with a value of £25,000 or above, regardless of whether the contract award opportunity was advertised, a contract award notice containing the name of the Supplier, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below Threshold, the award notice must state, whether or not Supplier is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE)
- 14.5 For above Threshold Contracts, a Contract Award Notice must be published in OJEU or the UK e-notification service, as required by law or by the Government and the relevant standstill period observed. The contract shall not be completed or a Purchase Order issued unless the standstill period passes with no challenges. The Authorised Officer shall notify the Procurement Adviser and the Borough Solicitor immediately following receipt of a challenge.
- 14.6 For contracts with a value of £25,000 and above, the purchase order shall not be issued until the formal written contract has been completed

15. **DEBRIEFING**

- 15.1 The Authorised Officer shall provide a written debriefing to unsuccessful Candidates as required by the law.

SECTION 4: CONTRACT FORMALITIES

16 **EXECUTION OF CONTRACTS**

- 16.1 All contracts not exceeding £25,000 that require execution shall be signed by any of the Chief Executive, Executive Director, Director, Borough Solicitor or any other officer with delegated authority to do so, unless the Borough Solicitor requires that the contract be sealed.

- 16.2 All contracts exceeding £25,000 but not exceeding £50,000 shall be signed by the Borough Solicitor unless the Borough Solicitor requires that the contract be sealed.
- 16.3 All contracts exceeding £50,000 shall be executed as a deed by the Borough Solicitor and the common seal affixed to the contract unless the Borough Solicitor considers it more expedient to sign the contract.
- 16.4 Electronic signatures may only be permitted as a method of executing contracts with the prior consent of the Section 151 officer having first obtained advice from the Borough Solicitor.

17. RECORDS OF QUOTES, TENDERS AND CONTRACTS

- 17.1 The Procurement Adviser shall maintain a list of all Tenders and Quotes over £25,000 received. For procurements not exceeding £25,000, the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Adviser.
- 17.2 Authorised Officers must ensure that details of contracts awarded over £5,000 are entered on the Contracts Register kept by the Authority and maintained by the Procurement Adviser.
- 17.3 All contracts with a value of £25,000 and above shall be kept by the Borough Solicitor and a copy shall be sent to the Procurement Adviser.
- 17.4 All contracts below that value shall be kept securely by the Budget Holder in accordance with the Authority's retention policy and a copy sent to the Procurement Adviser.

18. BONDS AND PARENT COMPANY GUARANTEES

- 18.1 A Bond or Parent Company Guarantee will be required on all works contracts above £1,000,000 unless considered inappropriate by the Section 151 Officer following consultation with the Borough Solicitor.
- 18.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Borough Solicitor.
- 18.3 Bonds shall be a minimum of 10% of the contract value.

19. EMBEDDED LEASES AND EMBEDDED DERIVATIVES

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

- 19.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or
- 19.1.2. contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or
- 19.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or
- 19.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

SECTION 5: SPECIFIC TYPES OF TENDERING

20 **FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS**

FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY OTHER CONTRACTING AUTHORITIES

- 20.1 External Framework Agreements and Dynamic Purchasing Systems (DPS), where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a full procurement exercise.
- 20.2 The Framework Agreement and DPS may include within its terms a requirement for abbreviated competitive exercise (“mini competition”) between some or all of those Suppliers who are parties to the Framework Agreement and can provide the supplies/services/works being tendered. Other Framework Agreements and DPS may allow for a direct award or the choice of either direct award or mini completion. Any purchase from a Framework Agreement or DPS shall be made in accordance with the procedure set out in the Framework Agreement or DPS.
- 20.3 The approval of the Procurement Adviser or Borough Solicitor shall be sought before signing up to a new Framework Agreement or DPS.
- 20.4 A Call-Off contract as set out in the Framework Agreement or DPS will need to be entered into. If no pre agreed contract is provided for in the Framework Agreement or DPS, a contract drafted or approved by the Borough Solicitor, shall be entered into.

FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY THE AUTHORITY

- 20.5 The Authority may carry out procurement exercises to set up Framework Agreements or a DPS to allow it to choose Suppliers who meet its pre-qualification requirements. The Authority can then Call-Off Suppliers from the Framework Agreement or the DPS. This could be useful where the Authority has need to call on contracts urgently or often. The Authority could also set up a Framework Agreement or DPS for itself and other local authorities to use in order to make efficiency savings.
- 20.6 Once a Framework Agreement or DPS is established, Quotes and Tenders for contracts may be invited from Suppliers included on the Framework Agreement or DPS up to the financial limit stated in the Framework or DPS.
- 20.7 The Authority will need to carry out a procurement exercise to select the Suppliers to include on and to set up the Framework Agreement or a DPS. This procurement will need to be advertised in accordance with these Contract Rules and the Regulations. The total contract value limit referred to in rule 20.6 above shall be determined by the anticipated level of spend per Framework Agreement or DPS.
- 20.8 The call off from a contract under a Framework Agreement or DPS with a value of £25,000 or above shall be published on Contract Finder.
21. **DRAW DOWN AGREEMENTS**
- 21.1 Authorised Officers may award Draw Down Agreements to individual Suppliers where services, supplies or works are required on an ad hoc basis e.g. JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.
- 21.2 Authorised Officer shall carry a procurement process for the award of the Draw Down Agreement in accordance with these contract rules
22. **COLLABORATIONS AND JOINT PROCUREMENT**
- 22.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director and Procurement Adviser.
23. **PROCUREMENT BY CONSULTANTS**
- 23.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules and the Regulations. The Authorised Officer shall ensure that the consultant's performance is monitored.
- 23.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant

carries out any procurement in accordance with these Contract Rules and the Regulations.

23.3

Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.

23.4

No Consultant shall make any decision on whether to award a contract or to whom a contract should be awarded. This decision rests with the Awarding Officer who shall sign the Tender Acceptance Form or waiver.

24

NOMINATED AND NAMED SUB-CONTRACTORS

24.1

Tenders for sub-contracts to be performed or supplies to be provided by nominated Suppliers shall be dealt with in accordance with the provisions of these Contract Rules.

SECTION 6

CONTRACT MANAGEMENT AND AMENDMENTS TO CONTRACTS DURING THEIR TERM

25

AMENDMENTS TO CONTRACTS

Above Threshold Contracts

25.1

An above Threshold Contract, Framework Agreement or DPS can only be changed if permitted by the Regulations. Advice must be sought from the Borough Solicitor before making any changes to an above Threshold Contract or Framework Agreement.

Below Threshold Contracts

25.2

In limited circumstances and having regard to the Regulations and advice from the Borough Solicitor, the Awarding Officer may authorise changes to be made to contracts below Threshold Contracts.

26

CONTRACT MANAGEMENT

26.1

Authorised Officers need to actively monitor and manage a Supplier's performance throughout the contract life to ensure milestones, KPIs, deliverables and outcomes are achieved. Risks and, where appropriate, business continuity shall be managed as detailed in the tender and Contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.

- 26.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender, procurement documentation and the contract.

27 DEFINITIONS

Advertised	As defined in Regulation 110 of the Public Contracts Regulations 2015. "An opportunity is advertised if the Authority does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open-ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract"
Authorised Officer	Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules.
Awarding Officer	The officer with the delegated authority to award the contract
Best Value for Money	The best solution for the Authority taking into account price, quality and deliverability.
Bond	An insurance policy: if the Supplier does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Supplier's failure.
Borough Solicitor	Means the senior legal adviser for the Authority
Budget holder	The officer responsible for the budget for the relevant procurement
Candidate	Any person who may or does submit a Quote or Tender.
Call-Off Contract	Means a contract awarded to a Supplier under a Framework Agreement
Concession Contracts	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.
Consultant	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
Contracting Authorities	Bodies that are subject to the Regulations.
Director	Means the chief officers for the Authority, director or the Borough Solicitor
Draw down contract	A contract with a single Supplier where supplies, services or works are requested on an ad hoc basis

Dynamic Purchasing System (DPS)	A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can apply to join at any time.
Framework Agreement	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Head of Paid Service	Means the officer designated as head of paid service for the Authority under section 4 of the Local Government and Housing Act 1989
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these Contract Rules.
Most Economically Advantageous Tender	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> • Price (i.e. the lowest price) • Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing) • Best price/quality ratio
OJEU	Official Journal of the European Union – where notices for all above Threshold procurements opportunities and contract awards must be placed.
PAS 91	Means the Publicly Available Specification 91 prequalification questionnaire published by the British Standard Institute for contracts for works and associated services and supplies (or such other document mandated for use by the Government).
Parent Company Guarantee	A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
Portal	Means the portal used by the Authority to conduct procurements electronically.
Procurement Adviser	An officer engaged by or on behalf of the Authority to provide procurement services.
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulations	Means the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, Utilities Contracts Regulations 2016 or any other UK legislation regulating procurements by local authorities (as may be amended, modified or replaced from time to time)

Regulation 84 Report	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015
Section 151 Officer	The officer of the Authority who has been designated as such pursuant to Section 151 of the Local Government Act 1972.
Substantial	<p>In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:-</p> <ul style="list-style-type: none"> (a) the change renders the contract or the framework agreement materially different in character from the one initially concluded; (b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have; <ul style="list-style-type: none"> (i) allowed for the admission of other candidates than those initially selected, (ii) allowed for the acceptance of a tender other than that originally accepted, or . (iii) attracted additional participants in the procurement procedure; . (c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement; (d) the modification extends the scope of the contract or framework agreement considerably; (e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1)(d).
Supplier	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
Threshold	Means the values set by the European Commission, or such other Government or Regulatory body, which determine whether a procurement has to be carried out in accordance with the Regulations (except Part 4 of the Public Contracts Regulations which applies for procurements with a value of £25,000 and above).

Cheltenham Borough Council

Cabinet Meeting – 11 June 2024

Council Meeting – 17 June 2024

Capital Investment to reduce energy usage at Leisure@ Cheltenham

Accountable member:

Iain Dobie – Cabinet Member for Climate Emergency

Accountable officer:

Gemma Bell - Director of Finance and Assets (Deputy Section 151 Officer)

Accountable scrutiny committee:

N/A

Ward(s) affected:

St Pauls

Key Decision:

No

Executive summary:

In February 2022, Full Council approved a £10m Green Investment Fund to support initiatives which would deliver a return and contribute to reducing the carbon footprint of the town. Detailed savings proposals and a full business case for these capital investments were presented to the Green Investment Board on 1 March 2024. The business case was approved for £83,750 of investment into swimming pool heat retention covers and it was also recommended that the LED lighting investment be made despite not meeting the 3% return criteria. This is because the lighting on the site is at the end of life and requires replacement as part of the planned maintenance programme. The LED option provides both financial and carbon improvements when compared to the existing infrastructure. The business case shows that both investments will reduce energy usage sufficiently to cover the annual cost, with the pool covers having a return on investment of 16.4%.

The conditions of the Green Investment funding require Cabinet ratification of the decision made by the Green Investment Board which is reflected in the recommendations below.

Recommendations: that Cabinet/Council:

1. **Approves a capital investment of £264,500 to replace the existing lighting system in the leisure centre with LED technology;**
 2. **Approves a capital investment of £83,750 from the Green Investment Fund to install pool covers across the building; and**
 3. **Delegates authority to the Director of Finance and Assets (Deputy s151 Officer) to procure and award the contract for the installation of the equipment and monitor the implementation.**
-

1. Implications**1.1. Financial implications**

The 2024/25 budget includes an energy budget of £1.6m which represents is a 60% increase since 2021/22. This is driven by the inflationary increases in energy costs felt through 2022/23 and almost half of this energy is used at Leisure@ Cheltenham. Any reduction in energy usage will start to reduce the pressure from these areas of the revenue budget.

Signed off by: Gemma Bell, Director of Finance and Assets, 01242 264124

1.2. Legal implications

The procurement of these services will be above the current procurement threshold. Officers will undertake a compliant procurement exercise in accordance with the Public Contract Regulations 2015 and will engage with One Legal and Publica during this process.

Signed off by: One Legal, Legalservices@onelegal.org.uk

1.3. HR implications

There are no direct implications from the recommendations.

Signed off by: Shona Corbett, HR Business Partner, shona.corbett@cheltenham.gov.uk

1.4. Environmental and climate change implications

The proposed investment in improved systems for controlling operational energy use will help to lower our consumption, delivering both financial and carbon savings. As outlined within the Climate Action Plan, these works underpins an essential stage in the decarbonisation plan, for the highest emitting asset within our property portfolio, which dominates our scope 1&2 emission performance.

Signed off by: Maizy McCann, Climate Emergency Officer,
Maizy.mccann@cheltenham.gov.uk

1.5. Property/asset implications

The replacement of the LED lighting is an opportunity to use the planned maintenance programme to proactively reduce the carbon footprint of the site.

Signed off by: Gemma Bell, Director of Finance and Assets, 01242 264124

1.6. Corporate policy framework implications

The recommendations, if approved, will support the council in its ambition to become a net zero Council and Borough by 2030 as set out in our Climate Emergency Action Plan: Pathway to Net Zero and deliver on one of its specific actions relating to council buildings: *“Measure the energy usage of CBC owned properties and develop a heating and energy efficiency strategy to set out actions needed to actively reduce energy consumption and move away from the use of fossil fuels.....”*

Signed off by: Ann Wolstencroft, Head of Projects, Programmes and Risk,
ann.wolstencroft@cheltenham.gov.uk

2. LED Lighting Investment

2.1 Introduction

- 2.1.1 LED technology is the newest type of lighting and offers increased levels of efficiency when compared to other lighting types such as fluorescent, halogen and sodium systems. Most lighting systems at Leisure at Cheltenham were installed in 2008 and use fluorescent technology. Whilst at that time, these would have been considered reasonably efficient, advancements in LED technology mean that the existing lighting is now highly inefficient by modern standards.
- 2.1.2 As such, the high levels of energy usage by the existing lights contribute significantly to the facility’s revenue costs for energy. The existing lighting has also exceeded its economic service life and are due to be replaced through the maintenance programme by 2025/26. Recent repairs, funded through revenue budgets, have cost more than £5,000 in order to keep the lights in working order.
- 2.1.3 The proposal presented here is to replace the existing lighting with LED lighting in the sports hall, cricket hall, swimming pool and corridor and reception spaces. The installation will have minimal impact on the operation of the centre.

2.2 Financial Viability

2.2.1 The expected cost of the investment is outlined below.

	£
Installation Costs	230,000
Contingency – 25%	34,500
Total capital investment	264,500

2.2.2 The impact on the revenue budget is outlined in the table below. This assumes that the investment will be paid for by borrowing, repaid over twenty years in line with the useful life of the equipment and that the full contingency will be required.

2.2.3 The projected savings generated by the investment relate to the amount of energy which will be required to light the environment. In total across the site the LED lighting investment is expected to save **24,363kg/CO2e per annum which equates to £29,235 in Year 1.**

2.2.4 Notwithstanding the planned maintenance work would need to be undertaken regardless in order that the site remains open to the public, this option provides both a financial and environmental improvement in operations and is recommended despite the return not meeting the 3% threshold in the Green Investment Fund.

	£
Minimum Revenue Provision	13,225
Interest Cost – at PWLB rate of 5.37%	14,203
Total Annual Revenue Cost	27,428
Total Expected Saving	(29,235)
Net Saving – equivalent to 12% yield	(1,807)

3. Swimming Pool Heat Retention Covers

3.1 Introduction

3.1.1 A swimming pool heat retention cover is a system installed to reduce the quantity of heat energy lost through evaporation, convection, and radiation when swimming pools are not in use. Currently, there are no existing pool covers at Leisure at Cheltenham resulting in a significant heating power requirement and subsequently higher energy costs.

3.1.2 The recommendation in this report will cover the installation of pool covers on the main pool, diving pool, learner pool, splashpad and the spa pool. The pool covers will be required to be replaced approximately every seven years but at a much lower cost than the initial installation. The installation will have minimal impact on the operation of the centre.

3.2 Financial Viability

3.2.1 The expected cost of the investment is outlined below.

	£
Installation Costs	67,000
Contingency – 25%	16,750
Total capital investment	83,750

3.2.2 The impact on the revenue budget is outlined in the table below. This assumes that the investment will be paid for by borrowing, repaid over seven years in line with the useful life of the equipment and that the full contingency will be required.

3.2.3 The projected savings generated by the investment relate to the amount of energy which will be required to manage the temperature of the pool environment. In losing less heat the pool will need less energy to heat to the same temperature. Likewise when the pool covers are in use the levels of evaporation from the water will reduce which will mean lower dehumidification is required from the Air Handling Unit. In total across the site the pool cover investment is expected to save **60,045.5kg/CO2e per annum which equates to £31,255 in Year 1.**

3.2.4 The investment is also expected to generate a minimum return of 16.4% based on the net revenue saving.

	£
Minimum Revenue Provision	11,964
Interest Cost – at PWLB rate of 4.81%	4,028
Annual Service Cost	1,500
Total Annual Revenue Cost	17,492
Total Expected Saving	(31,255)
Net Saving – equivalent to 16.4% yield	(13,763)

4. Reasons for recommendations

- 4.1. These recommendations will reduce our energy use in a consistent way, offering both carbon and financial savings for the council.
- 4.2. The recommended investment also provides the most energy efficient maintenance solution to replace the lighting which is coming to the end of its useful life.

5. Alternative options considered

- 5.1. We have considered taking no action but given current energy prices, this is considered financially unacceptable.
- 5.2. Likewise, the lighting could be replaced with a less efficient option but it is considered more aligned to the climate goals of the Council to improve the technology used.

6. Consultation and feedback

- 6.1. This report has been written in consultation with the Property team and the Climate Emergency Team. Discussions have been held with staff and the operators of our buildings, regarding the best way to manage our current energy usage.
- 6.2. The proposal has also been considered by the Green Investment Board, which has unanimously recommended the investment for approval under the Cheltenham Green Deal and financed by the Green Investment Fund.

7. Key risks

- 7.1. See Appendix 1.
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8. Performance management – monitoring and review

- 8.1. Once the project is authorised, it will be managed by Property Services in consultation the Cheltenham Trust
 - 8.2. The energy usage of the site will continue to be monitored as part of the Council's carbon reporting
 - 8.3. Regular financial reviews will be held to confirm the financial appraisal has been realised.
-

Report author:

Gemma Bell, Director of Finance & Assets (Deputy s151 Officer)

Appendices:

- i. Risk Assessment

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	Risk to operational processes during installation	Gemma Bell, Director of Finance and Assets	3	2	6	Reduce	Putting a working party together of relevant stakeholders to manage, monitor and review. Ensuring that as much as possible of the work can be completed when the centre is closed.	Gemma Bell, Director of Finance and Assets	September 2024
	If we do not implement improvements to the energy efficiency in our key operational buildings, energy costs will continue to require additional budget and our carbon net zero goals will not be achieved.	Gemma Bell, Director of Finance and Assets	4	4	16	Reduce	Implement report recommendations	Gemma Bell, Director of Finance and Assets	Winter 2024

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