



# WEST OXFORDSHIRE DISTRICT COUNCIL

## CONSTITUTION

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## Revision history

Revision Date	Version	Description
27 September 2023	2.0	Council agreed various changes including to Overview and Scrutiny.
19 October 2023	2.1	Removal of Deputy Chief Executive title.
29 November 2023	2.2	Council agreed to the inclusion of budget procedure rules and a change to the responsibilities of the Performance and Appointments Committee.
31 January 2024	2.3	Council agreed to the inclusion of a Communications Protocol.
13 March 2024	2.4	Amendment to the officer scheme of delegation agreed by the Executive on 6 March 2024; various changes agreed by Council on 13 March 2024; inclusion of employee code of conduct agreed by Audit and Governance Committee on 19 March 2024; minor amendments made under delegated authority.
22 May 2024	2.5	Council agreed changes to the Members' Allowances Scheme and the membership of the Audit and Governance Committee.
24 July 2024	2.6	Council agreed three delegations in relation to the Pavement Licensing Policy.
25 September 2024	2.7	Council agreed to adopt a planning code of good practice, a protocol for recording meetings and changes to parts 3C, 4C and 4F.
1 November 2024	2.8	Changes made under delegated authority to reflect Phase I of the Publica transition and other updates to the scheme of delegation.

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## Glossary of Terms

Article 4 Direction	A direction which restricts permitted development rights in a particular area
Executive	A number of elected Council members appointed by the Leader of the Council and who, together with the Leader, act as the body which is responsible for most formal decisions. Also sometimes known as the Cabinet
Executive Member	A councillor who has been appointed by the Leader of the Council as a Member of the Executive. Executive Members remain in office until the next election unless they resign, are suspended, are no longer a member of the Council or are removed from office by the Leader
Executive Work Plan	A plan to be published by the Executive and updated on a monthly basis in accordance with Regulations 13 and 14 of the 2000 Regulations, setting out Key Decisions which the Executive plans to take over the coming months
Call-in	The consideration by Overview & Scrutiny committee of a decision made, but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that Full Council be recommended that the decision be reconsidered
Chair	The person appointed to preside at meetings of Council or any Committee
Chief Executive	The officer with overall management and operational responsibility (including overall management responsibility for all officers). This post holder is also the “Head of Paid Service” as appointed in accordance with Section 4 of the Local Government and Housing Act 1989
Chief Finance Officer	The officer appointed by the Council under Section 151 of the Local Government Act 1972, to exercise the proper administration of the Council’s financial affairs, with specific responsibilities under the Local Government Act 1972 (currently the Director of Governance or Director of Finance)
Clear working day	A clear working day excludes Saturday, Sunday and bank and public holidays (and in the case of committee agenda excludes the date of publication of the agenda and the date of the meeting)
Committee	A committee of the Council
Council	West Oxfordshire District Council
Deputy Leader	An Executive Member who has been nominated to act in the absence of the Leader. For the avoidance of doubt the

	Deputy Leader can exercise all the powers of the Leader in their absence
Exempt	<p>Information to be considered at a Council or Committee meeting in respect of which the public may be excluded (as defined by Schedule 12A of the 1972 Act (as amended)). Categories of exempt information are:</p> <ul style="list-style-type: none"> <li>- Information relating to any individual</li> <li>- Information which is likely to reveal the identity of an individual</li> <li>- Information relating to the financial or business affairs of any particular person (including the authority holding that information)</li> <li>- Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</li> <li>- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</li> <li>- Information which reveals that the authority proposes <ul style="list-style-type: none"> <li>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person or task</li> <li>(b) To make an order or direction under any enactment</li> </ul> </li> <li>- Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</li> </ul>
Executive	Sometimes known as the Cabinet
Executive Functions	Functions which may be discharged by the Leader, or delegated by the Leader to the Executive, a committee of the Executive, an individual member of the Executive, an officer or another local authority
Head of Paid Service	The officer appointed in accordance with Section 4 of the Local Government and Housing Act 1989, i.e. the Chief Executive
Key Decision	<p>A decision which is significant. This Council has previously determined the definition of a “key decision”, which is:</p> <ul style="list-style-type: none"> <li>(i) any Executive decision which requires a budget expenditure, or generates savings, of £150,000 or more;</li> <li>(ii) any executive decision where the outcome will have a significant impact on communities living or working in an area comprising two or more</li> </ul>



	District
Leader of a Political Group	The leader of a political group as defined in the Local Government (Committee etc.) Regulations 1990
Leader	Such person as the Council elects to be the Leader with powers outlined in the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007
Local Choice Functions	As defined by Regulation 3 and Schedule 2 to the Local Authority (Functions and Responsibilities) (England) Regulations 2000, where the authority has decided which functions are to be the responsibility of the Executive
Meeting	A meeting of the Council, Executive, a committee or sub-committees or task groups as the case may be
Member	In relation to the Council, an elected Councillor; in relation to any other body, a person appointed as a member of that body, whether or not entitled to vote
Monitoring Officer	The officer appointed by the Council in accordance with Section 5 of the Local Government and Housing Act 1989, to promote and maintain high standards of ethical conduct and ensure lawfulness and fairness of decision making or, if they are unable to act owing to absence or illness, the person nominated as their deputy
Overview and Scrutiny Committee	Committee or Committees of the Council established in accordance with Section 21 of the Local Government Act 2000, to assist in the development of policy and to review and scrutinise the decisions made by the Executive, committees and council officers (there is currently one Overview and Scrutiny Committee which also acts as the Council's Crime and Disorder Committee)
Personal Explanation	Where something material that was raised by a member in an earlier speech appears to have been misunderstood, a member may be permitted to correct that misunderstanding by way of personal explanation. The ruling of the Chair on the admissibility of a personal explanation will be final
Political Balance Rules	As defined in the Local Government and Housing Act 1989 relating to proportional representation of political groups; on committees, sub-committees and certain other bodies
Political Groups	Any two or more councillors notifying the Monitoring Officer in the appropriate form is considered a political group for the purpose of seat allocation
Portfolio Holder	An Executive Member with a specific and detailed area of responsibility, and who may be delegated to take executive decisions
Proper Officer	An officer, appointed in accordance with the terms of Section 270(3) of the Local Government Act 1972, to carry out specified actions of the performance of certain specified duties on behalf of the Council

## Constitution of West Oxfordshire District Council

Regulation 3 and Regulation 4 proposals	Means applications made by the County Council themselves for example schools
Regulatory Committee	A committee undertaking quasi-judicial functions of the Council such as Planning or Licensing
Requisition	A document signed by five (5) elected members requesting that the Chair of council calls an extraordinary meeting of council
Task & Finish Group	a small working group of interested elected members who review specific issues of concern to Overview and Scrutiny in depth
The 1972 Act	The Local Government Act 1972
The 1989 Act	The Local Government and Housing Act 1989
The 2000 Act	The Local Government Act 2000
The 2007 Act	The Local Government and Public Involvement in Health Act 2007
Vice-Chair	The person appointed to preside in the absence of the Chair, at meetings of any properly constituted body

## Part I: Summary

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### IA Summary and Explanation

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#### IA.1 The Council

West Oxfordshire District Council ('the Council') is the local authority for the administrative area of the West Oxfordshire, which comprises an area of around 714 km<sup>2</sup> within Oxfordshire. The district has a population of approximately 109,800.

This constitution sets out the processes and procedures of how West Oxfordshire District Council will govern itself and make decisions.

The Council seeks to be cost effective and efficient in its operation and in delivering services, ensuring that it is open and transparent and accountable for its actions.

Each year, the Council appoints a ceremonial Chair of the District, who is responsible for Charing meetings of the full Council (see Part 2: Article 2).

#### IA.2 Executive Model

The Council operates a Leader and Executive structure (see Part 2: Article 4).

The Council appoints the Leader of Council, who may then appoint up to nine Executive members to form an Executive, also known as the Cabinet. The functions for which the Executive will be responsible are identified in [Part 3D](#). It is responsible for most decisions that affect the day-to-day operations of the Council.

#### IA.3 Regulatory Matters

The Development Control and Licensing Committees, together with their Sub-Committees, will undertake the regulatory functions of the Council relating to determining planning applications and applications for public licences, e.g. caravan sites, gambling, liquor and public entertainment licenses, hackney carriages, etc. (See Part 2: Article 5). Meetings of all Committees will be in public except where exempt or confidential information is to be discussed and the meeting considered that the public interest does not outweigh the need to maintain the confidentiality of the information.

#### IA.4 Overview and Scrutiny

The Council has also appointed one Overview and Scrutiny Committee that supports the work of the Executive and the Council as a whole. The Overview and Scrutiny Committee may be consulted by the Executive on forthcoming decisions

and on the development of policies. The Overview and Scrutiny Committee will allow members of the public to have a greater say in Council matters by holding inquiries into matters of local concern, which can lead to reports and recommendations which advise the Executive and the Council. The Overview and Scrutiny Committee is able to ‘call-in’ certain categories of decisions made by the Executive but not yet implemented and may recommend that the Executive reconsiders the relevant decision. (See Part 2: Article 3).

#### **IA.5 Local Government and Social Care Ombudsman**

Members of the Public, without prejudice to other legal rights and remedies, may complain to the Local Government and Social Care Ombudsman if they believe that the Council has not followed the procedures or processes properly, or to the Monitoring Officer if they believe that there is evidence which shows that a Councillor has breached the provisions of the Members’ Code of Conduct. The Council has adopted a customer feedback process that enables members of the public to seek remedies locally before referring the matter to the Ombudsman.

#### **IA.6 The Constitution**

This document comprising the Constitution contains mandatory provisions required by central government and other relevant provisions, which have been modified to suit the circumstances relating to the Council. (See Part2: Article 10).

This Constitution was adopted by West Oxfordshire District Council on 24 May 2023 and the Scheme of Officer Delegations agreed, other than those relating to Executive functions, as set out in Part 3D of the Constitution and replaced all previous versions. It has since been amended as shown in the revision history on page 2 of the Constitution.

#### **IA.7 How Decisions are made**

The full Council agrees the policy framework and budget within which any other decisions within the Council are to be made. The Executive are responsible for most other major decisions.

The fact that the Executive is to make a Key and/or Exempt decision is published on the Executive work plan which is published on the Council’s website not less than 28 calendar days before the decision is to be made. When such decisions are to be discussed at a meeting of the Executive this will be open to the public to attend, except where there are excluded due to exempt or confidential information being discussed. The Executive has to make decisions which are in line with the Council’s overall policies and budget.

Executive members also take individual decisions, within the remit of their portfolios.

The Council has put in place procedures to ensure that before such decisions are taken, there is appropriate opportunity for consultation with all interested parties and that the decisions must be recorded, in writing, kept and are available to the public.

The majority of the day-to-day decisions of the Council are delegated to Officers.

#### **IA.8 Audit and Governance Committee**

The Council has an Audit and Governance Committee responsible for overseeing the audit function, annual accounts and the work of the internal auditors, promoting and maintaining high standards of conduct of members and through its Standards Sub-Committee, determining standards matters.

#### **IA.9 The Council's staff**

The Council is an employer of staff and has appointed staff from Publica Group UK; all such staff are known as Officers. Officers give professional and practical advice, implement decisions of Members, make, and implement delegated decisions and manage day to day delivery of the Council's services. The statutory officers have specific duties to ensure that the Council acts within the law and uses its resources wisely. (See Part 2: Article 12).

#### **IA.10 The Public**

Members of the public have a number of rights in their dealings with the Council and these are set out in more detail in Part 2: Article 13. Some of these are legal rights, whilst others depend on the Council's own processes and procedures. The Citizen's Advice Bureau can advise on individuals' legal rights.

The Council welcomes and actively encourages participation by members of the public in its work.

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## Part 2: Articles of the Constitution

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### 2A Article 1 – The Council

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#### 2A.1 The Role of the full Council

Full Council is the policy-making body from which the policy framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Executive (also known as the Cabinet) will be delegated the responsibility of policy implementation and effective service delivery.

The election of the Leader and the establishment and appointment to non-Executive Committees will be the responsibility of full Council.

On an annual basis full Council will elect a Chair, who shall not then be a member of the Executive. On an annual basis full Council will appoint a Deputy Chair, who shall not then be a member of the Executive.

#### 2A.2 Functions of the full Council

Only the Council will exercise the functions set out in [Part 3B](#) of this Constitution.

Full Council will determine the responsibilities for the Council's functions which are not the responsibility of the Executive, also known as Local Choice Functions, and have determined that all functions of the Council that are not reserved to full Council are deemed to be Executive functions (see Part 3D.1).

#### 2A.3 Council meetings

There are four types of Council meeting – the annual meeting; ordinary meetings; extraordinary meetings and special meetings. They will be conducted in accordance with the Council Procedure Rules in [Part 5A](#) of this Constitution.

There will be at least three ordinary meetings plus the annual meeting each year. Extraordinary meetings will be called as and when necessary, as provided for in this Constitution. Special meetings will be called, for a specific purpose, where necessary in accordance with the law and the Council Procedure Rules.

#### **2A.4 Responsibility for functions**

The Council will maintain the lists in [Part 3](#) of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Executive.



## **2B Article 2 – Chairing the Council**

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### **2B.1 Role and function of the Chair of the Council**

The Chair of the Council is elected to be the Civic Head of the Council, representing the Council as a whole in all civic and ceremonial matters, and to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the Community.

The Chair and Deputy Chair of the Council will be elected and appointed by the Council annually. They are both accountable to the full Council and may only be removed during their term by full Council.

The Chair, and, in their absence, the Deputy Chair will have the following roles and functions:

#### Chairing meetings of the Full Council

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having taken advice from the Monitoring Officer or their representative;
- to preside over meetings of the Council in an impartial manner so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive nor are Committee Chairs are able to hold the Executive and Committee Chairs to account;
- to promote public involvement in the Council's activities;
- to be the independent conscience of the Council.

#### Civic and Ceremonial Role

- to attend such civic and ceremonial functions as the Council determine appropriate in order to promote the Council and its interests;
- to promote the Council as a whole and act as a focal point for the Community;
- to host such civic and ceremonial functions as the Council determines appropriate in order to promote the Council and its interests.

#### Charity

- The Chair may promote a Chair's Charity for the charity or charities of their choice during their term of office and will make external arrangements for the provision of all the support necessary in relation to their involvement

with or support of that charity appeal.

## **2B.2 Non-Eligibility for membership of the Executive**

Neither the Chair nor the Deputy Chair can be a member of the Executive.

## **2C Article 3 – Overview and Scrutiny Committee**

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### **2C.1 Terms of reference**

The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations proposed under section 32 of the Local Government Act 2000.

In relation to the scrutiny of Health functions, the Council participates in County wide arrangements primarily administered by the Oxfordshire County Council and appoints members / deputies to serve on a county-wide Health Scrutiny Joint Committee in accordance with arrangements approved by all the principal Councils in Oxfordshire.

### **2C.2 General Role**

Overview and Scrutiny is an important element of the Council's Constitution. The Overview and Scrutiny Committee is a powerful public forum through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the Council's functions and/or other matters affecting the District and hold the Executive to account for their decisions and actions. Overview and Scrutiny is concerned with the overall wellbeing of the District and all factors affecting this and is an important mechanism for Councillors to represent their Wards and are a focus for stakeholder and community involvement.

The Overview and Scrutiny Committee will be responsible for the functions and powers set out in [Part 3C](#) of this Constitution.

### **2C.3 Annual Report**

The Overview and Scrutiny Committee must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **2C.4 Proceedings of Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in [Part 5C](#) of this Constitution.

### **2C.5 Power to co-opt people onto the Committee**

The Overview and Scrutiny Committee will have the power to co-opt any person or persons it thinks appropriate (except for a member of the Executive) onto the

Committee, on whatever basis they think appropriate. Co-opted members may speak in debates but not vote.

#### **2C.6 Chair of Overview and Scrutiny Committee**

The Chair of an Overview and Scrutiny Committee must be an opposition Member.

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## 2D Article 4 – The Executive

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### 2D.1 Role

The Executive, also known as the Cabinet, carry out all of the local authority's functions as set out in [Part 3D](#) of this Constitution.

### 2D.2 Form and composition

The Executive will consist of the Executive Leader together with at least four, but not more than nine, Councillors, appointed to the Executive by the Leader.

### 2D.3 Leader

The Leader will be a Councillor elected by the Council at the annual meeting. Under the terms of the Local Government and Public Involvement in Health Act the Leader will hold office until the day following their normal day of retirement when they may seek re-election, or until:

- (i) they resign from the office; or
- (ii) they cease to be a Councillor other than on the normal day of their retirement as a Councillor; or
- (iii) the day of the next Annual Council Meeting after the Leader's normal day of retirement as a Councillor; or
- (iv) they are removed from office by resolution of the Council, in accordance with Council Procedure Rules.

The Leader shall appoint a Member of the Executive to be the Deputy Leader, who shall have all the powers, duties and responsibilities of the Leader in their absence.

### 2D.4 Other Executive Members

Only Councillors may be appointed to the Executive. There may be no co-optees and no deputies or substitutes for Executive members (other than the Deputy Leader who may deputise for the Leader in their absence). Neither the Chair nor Deputy Chair of the Council may be appointed to the Executive and members of the Executive (including the Leader) may not be members of an Overview and Scrutiny Committee nor act as Chairs of Regulatory Committees.

Other Executive members shall be appointed annually by the Leader who shall advise the Council formally of their appointments at the annual meeting. They will hold office until the next annual meeting, when they may be reappointed, or until:

- (i) they resign from office; or
- (ii) they are no longer Councillors; or

- (iii) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two clear working days after receipt of the notice by the proper officer and will be notified to full Council at the next ordinary meeting.

#### **2D.5 Members of the Council who are not on the Executive**

Members of the Council who are not on the Executive may attend meetings of the Executive. At the discretion of the Leader, they may ask questions and/or join in debates, but they may not vote.

#### **2D.6 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in [Part 5B](#) of this Constitution.

#### **2D.7 Responsibility for functions**

The Leader will maintain a list in [Part 3D](#) of this Constitution setting out which individual members of the Executive, Committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions. The Leader will notify the Monitoring Officer of any changes which shall take effect two clear working days after such notification is received.

#### **2D.8 Policy Advisors**

Policy Advisors, who are Members of the Council, may be appointed by the Leader to advise Executive Members on any area for which they are responsible. An Executive Member may consult a Policy Advisor before making a decision but a Policy Advisor shall not have the power to take Executive decisions on behalf of or affecting the Council.

## 2E Article 5 – Regulatory and Other Committees

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### 2E1. Council Committees

The Council will establish and appoint to the following Committees as set out in [Part 3](#) of this Constitution.

- Overview and Scrutiny Committee
- Development Control Committee
- Licensing Committee
- Audit and Governance Committee
- Performance and Appointments Committee

### 2E.2 Committee Membership

The appointment of members to these Committees will be made in accordance with the Council Procedure Rules in [Part 5A](#) of this Constitution. Appointments will be made by the Council, in accordance with the rules relating to political balance, having received nominations from Group Leaders. However, where a Group Leader confirms to full Council that he is making no such nomination for a seat that his party is entitled to, appointment to that seat on a Committee will be made by the Council, in accordance with the Council's decision, regardless of political balance.

The Committee, at its first meeting following Annual Council, will elect its Chair for the year appoint its Vice Chair for the year and consider the establishment and appointment to any sub-Committees.

### 2E.3 Sub-Committees

Several Committees, in accordance with Part 3 of the Constitution, have the power to establish Sub-Committees and to appoint to their membership from the membership of the 'parent' Committee.

The Development Control Committee has the power to establish Sub-Committees and generally establishes:

- Uplands Sub-Committee, and
- Lowlands Sub-Committee

The Audit and Governance Committee has the power to establish Sub-Committees and generally establishes:

- Standards Sub-Committee

The Licensing Committee has the power to establish Sub-Committees and generally establishes:

- Miscellaneous Licensing Sub-Committee
- Licensing Panel Sub-Committee

#### **2E.4 Appointments to Sub-Committees**

Appointments to Sub-Committees are made by the 'parent' Committee; the body that established the Sub-Committee. The appointments are made by that Committee, from its own membership, in accordance with political balance. The only exception is where the Group Leader has confirmed to the Chair of the 'parent' Committee that no members of his political group on that Committee are nominated for appointment, in which case the parent Committee will appoint to that seat on the Sub-Committee, from its own membership but not necessarily in accordance with political balance.

A Sub-Committee will elect its own Chair at its first meeting.

#### **2E.5 Training**

Members of the Council wishing to serve on the Development Control Committee, the Uplands Sub-Committee or the Lowlands Sub-Committee, including as a substitute member, when they sit to determine Planning Applications, are required to attend mandatory Planning Training prior to participating in any such meeting. All Members sitting on the Development Control Committee, the Uplands Sub-Committee or the Lowlands Sub-Committee, when determining Planning Applications, are also required to attend any update training as may be identified by the Senior Officer with responsibility for Planning. Failure to attend update training may result in the member being removed from the Committee or Sub-Committee, as appropriate, when a Planning Application is being determined.

Members of the Council wishing to serve on the Licensing Committee, its Licensing Panel Sub-Committee or Miscellaneous Licensing Sub-Committee, are required to attend Licensing training prior to participating in a meeting of the Panel. Members of the Licensing Panel Sub-Committee are also required to attend any update training as may be identified by the Senior Officer with responsibility for Licensing. Failure to attend training may result in the member being removed from the Committee or Sub-Committee.

Members of the Council wishing to serve on the Standards Sub-Committee of the Audit and Governance Committee, either as Sub-Committee members or as substitutes (from the Audit and Governance Committee) must have undertaken mandatory Standards Training prior to participating in any Standards Sub-Committee meeting to determine a standards hearing for a code of conduct complaint.

Members of the Performance and Appointments Committee are not required to undertake any mandatory training but are required to take into account the advice of a professional officer allocated to support them when dealing with recruitment, appointment, performance, capability, disciplinary or dismissal matters.



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**2F Article 6 – Area Committees**

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**2F.1 General**

The Council may appoint area Committees as it sees fit, if it is satisfied:

- a) that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making; and/or
- b) that to do so will enable the views of local people to be better taken into account in decision-making.

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

**2F.2 Delegation of decision-making powers to area Committees**

The Council may delegate decision-making powers to area Committees for functions which are not the responsibility of the Executive.

The Executive may delegate decision-making powers to area Committees for functions which are the responsibility of the Executive.

The Council and the Executive will include details of the delegations to area Committees in [Part 3](#) of this Constitution, including the functions delegated, showing which are the responsibility of the Executive and which are not, the composition and membership of the Committees, budgets and any limitations on delegation.

**2F.3 Conflicts of interest – membership of area Committees and Overview and Scrutiny Committee**

**6.3.1 Conflict of Interest** – If the Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Sub-Committee, in accordance with Regulations and guidance issued by the Secretary of State, or unless participation would be in accordance with the Council's Code of Conduct set out in [Part 6A](#) of the Constitution.

**6.3.2 General Policy Reviews** – where the Overview and Scrutiny Committee is reviewing policy generally the member must declare their interest before the relevant agenda item is reached. Under the Council's Code of Conduct this would be a personal interest but would not be prejudicial.

**2F.4 Area Committees – access to information**

Area Committees will comply with the Access to Information Rules in [Part 5G](#) of this Constitution.

Agendas and notices for area Committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which

**2F.5 Executive members on area Committees**

A member of the Executive may serve on an area Committee if otherwise eligible to do so as a Councillor.

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**2G Article 7 – Joint Arrangements**

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**2G.1 Joint Committees**

The Council may establish joint arrangements with one or more local authorities to exercise functions that are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a Joint Committee with these other local authorities and the delegation of functions to the Joint Committee.

The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities and the delegation of functions to the Joint Committee.

A list of any joint arrangements entered into will be held by Democratic Services.

Any member who represents the Council on a Joint Committee or in any joint arrangement will be required to provide a written annual report, for consideration by Council at its meeting in April each year, detailing the work of the Joint Committee/arrangement over the past year and identifying key work streams for the forthcoming year. In addition the member has an ongoing duty to update relevant ward members of any work which impacts on their ward.

**2G.2 Delegation to and from Other Local Authorities**

The Council may delegate non-Executive functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority. And the Executive may delegate Executive functions to another Local Authority or the Executive of another Local Authority in certain circumstances.

The decision whether or not to accept such a delegation from another Local Authority shall be reserved to full Council.

**2G.3 Contracting Out**

The Executive may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an Order under section 70 of the Delegation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making. Such decision to contract out shall be reserved to full Council.

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## 2H Article 8 – Decision Making

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### 2H.1 Responsibility for decision making

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

### 2H.2 Principles of decision making

Any decision taken must be in accordance with the terms of this Constitution.

Under the Constitution decisions are likely to be taken by the full Council, the Executive (both collectively and by individual members of the Executive), Committees and Sub-Committees, and by officers.

Whichever body or individual is responsible for taking a decision, it should be taken so far as possible in accordance with the following principles:-

- There should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
- Due consultation should take place with those likely to be affected by a decision. So far as practicable, decision taking should be planned in advance and the public given due notification of forthcoming decisions;
- Where a decision is likely to have wide-ranging or significant impact on the community, additional time and emphasis should be given to consultation and members of the public actively encouraged to contribute their views;
- Decisions must be taken reasonably, with regard to all relevant considerations, and ignoring all irrelevant matters;
- Decisions should be taken on the basis of clear aims and desired outcomes from the resultant action;
- All realistic alternatives should be evaluated prior to the decision being taken;
- Appropriate professional advice should be obtained from suitably qualified officers of the authority;
- Decisions must be taken with regard to proportionality – ie the action must be proportionate to the desired outcome;
- Decisions must be taken with regard to any relevant statutory requirements and with respect for human rights;
- Decisions must be taken with regard to the Equality Act 2010 and the associated policy of the Council;
- Decisions must have regard to any relevant approved policies or procedures of the Council;
- Any decision taken must be formally recorded in accordance with the requirements of this Constitution. Where the decision is taken by the

Executive, or a member of the Executive, the formal record should state what alternative options were considered and the reasons for the decision that was taken

In some cases (eg where urgent action is necessary, or confidential matters are under discussion) it may not be practicable to fully comply with all these principles, but decision-makers should satisfy themselves that they have been complied with so far as reasonably practicable in the circumstances. Decision-makers may be held to account for any failure to comply with the principles.

## 2H.3 Types of decision

2H.3.1 Decisions reserved to full Council – Decisions relating to the functions listed in [Part 3B](#) will be made by the full Council and not delegated.

### 2H.3.2 Key decisions –

A “key decision” means an Executive decision which, is likely either:

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards within the District.

A decision shall be regarded as financially significant if it is a decision which either commits the Council to more than £150,000 in expenditure or would result in savings greater than £150,000.

A decision shall be regarded as significant in terms of its effects on two or more wards if any of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, consider that the decision will fall within the statutory definition.

Key decisions can and may only be taken in accordance with the requirements of the Executive Procedure Rules set out in [Part 5B](#) and the Access to Information Procedure Rules, set out in [Part 5G](#).

2H.3.3 **Decision making by the full Council** – the Council meeting will follow the Council Procedures Rules set out in [Part 5A](#) of this Constitution when considering any matter.

2H.3.4 **Decision making by the Executive** – the Executive will follow the Executive Procedures Rules set out in [Part 5B](#) of this Constitution when considering any matter.

2H.3.5 **Decision making by Overview and Scrutiny Committee** – The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in [Part 5C](#) of this Constitution when considering any matter.

**2H.3.6 Decision making by other Committees and sub-Committees established by Council** – all other Council Committees and sub-Committees will follow those parts of the Council Procedures Rules set out in [Part 5A](#) of this Constitution as apply to them. For example, the Standards Sub-Committee will follow the Standards Procedure Rules.

**2H.3.7 Decision making by Council bodies acting as tribunals** – The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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**21 Article 9 – Finance, Contracts and Legal Matters**

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**21.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in [Part 5I](#) of this Constitution.

**21.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in [Part 5G](#) of this Constitution.

**21.3 Legal Proceedings**

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

**21.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £10,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. In accordance with the Council's Contracts Procedure Rules set out in this Constitution such contracts must be signed in accordance with the Contract Procedure Rules. Any Contract with a value exceeding £100,000 shall be under the common seal of the Council.

**21.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The affixing of the Common Seal will be attested by either the Chief Executive, Monitoring Officer, Chief Finance Officer, the Head of Legal Services or the Chair of the Council.

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## 2J Article 10 – The Constitution

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This constitution, and all of its appendices, is the **CONSTITUTION OF WEST OXFORDSHIRE DISTRICT COUNCIL**

### 2J.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Should there be a conflict between the two, the law shall prevail.

### 2J.2 Purpose of the Constitution

The purpose of the Constitution is to:

- Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Support the active involvement of citizens and encourage all sections of the District's communities to be involved in the Council's decision-making processes;
- Help Elected Members represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision-making are clearly identified to local people and that they explain the reasons for their decisions;
- Provide a means of improving the delivery of services to the community;
- Balance speedy and reasoned decision-making with adequate checks and balances;
- Place high standards of conduct and probity at the centre of decision-making.

### 2J.3 Structure and Interpretation of the Constitution

The Constitution is divided into Parts covering differing themes as follows:

- Part 1 Summary
- Part 2 Articles of the Constitution
- Part 3 Responsibility for Functions, Key Decisions and Executive Work Plan
- Part 4 Officer Scheme of Delegations
- Part 5 Policy & Procedure Rules
- Part 6 Codes & Protocols
- Part 7 Members' Allowance Scheme



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

#### **2J.4 Review of the Constitution**

A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for the ways in which it could be amended in order to better achieve the purposes set out at 2J.2 above. In undertaking this task the Monitoring Officer may:

- Observe meetings of different parts of the Member and Officer structure;
- Undertake an audit of a sample of decisions;
- Record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and
- Compare practices in this Council with those in other comparable Councils, or with national examples of best practice.

#### **2J.5 Changes to the Constitution**

Changes to the constitution arising either from a review, a motion from Council, or from the Monitoring Officer, will only be approved by the full Council after consideration by the Monitoring Officer, and will usually be considered by a Constitution Working Group who may make recommendations to full Council.

The Monitoring Officer has delegated authority to update the Constitution arising from decisions of the Council or Executive or where legislation requires a change in wording or terminology. The Monitoring Officer also has delegated authority to make minor and/or consequential changes to the Constitution.

Where a delegation is made to an Officer by the Council, to last 12 months or more, that delegation may need to be reflected in Part 3 of the Constitution, in which case the Monitoring Officer has the authority to update the Constitution to reflect that change.

The Monitoring Officer has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two statutory officers, and where the matter has been subject to consultation with the Leader of the Council, or other appropriate member.

The Monitoring Officer has authority to amend the Constitution to implement decisions of the Leader in relation to the delegation by the Leader of Executive functions to the Executive, or to implement decisions of the Leader in relation to the composition and appointments to the Executive.

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change from Leader and Executive structure to mayoral style Executive and must hold a binding referendum.

## **2J.6 Suspension or Waiver of the Constitution**

The Articles of this Constitution may not be suspended or waived. The Procedure Rules may only be suspended by full Council, the Executive or a Committee, to the extent permitted within those Procedure Rules, and within the law.

The procedure to suspend any Council Procedure Rule will be by way of a motion; such motion will not be moved without notice unless at least one half of the membership of full Council or the relevant Committee are in attendance and present. The extent and duration of any suspension must be proportionate to the result to be achieved, taking into account the purposes of the Constitution as set out in this article.

The following matters may be suspended in accordance with the above provision:

- The Council's procedural rules apart from those relating to quorums, declarations of interests, disturbances by the public and notice of motions;
- Financial procedure rules

A motion to suspend a particular rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Committee.

## **2J.7 Interpretation**

The Chair at any meeting shall take into account advice from the Monitoring Officer, or their representative, or legal advisor to the Committee, in interpreting the Constitution. The ruling of the Chair at any meeting as to the construction or application of the Constitution shall not be challenged at that meeting. Any dispute as to the operation of the Constitution should be referred in the first instance to the Monitoring Officer who will try to resolve the dispute between the parties involved.

## **2J.8 Publication**

An electronic version of the Council's constitution shall be made available to all Members on being elected.

The Monitoring Officer shall ensure that a copy of the Constitution is published on the Council's website and that paper copies of the Constitution are available for inspection at Council Offices and available to purchase by members of the public on payment of a reasonable fee.

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## **2K Article 11 – Roles and Responsibilities of all Councillors**

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### **2K.1 Role of Councillors**

Councillors will participate constructively in the good governance of the District in the interests of all residents, businesses and communities. They will contribute actively to the formation and scrutiny of the Council's policies, budget, strategies, plans and service delivery.

Councillors will deal with the constituents' enquiries and representations, and will effectively represent the interests of the Ward for which they were elected and views of the constituents.

Councillors may also be required to represent the Council on an outside body, such as a governing body or charitable trust.

### **2K.2 Composition & Election**

The Council comprises 49 Members, otherwise called Councillors. Councillors are elected by the voters of the Wards in the District in accordance with a scheme approved by the Secretary of State. Each member either represents a single Ward of electors where the number of electors is small or may share the representation of one Ward with one or more other Councillors where the number of electors is large. The division of the District into electoral wards is undertaken by the Local Government Commission and approved by the Secretary of State. Details of individual members and their Wards are available on the Council's website.

Only registered voters of the District or those living or working within the District are eligible to hold the office of Councillor.

The ordinary election of a third of all Councillors will be held on the first Thursday in May in each year, in three years out of four. A Councillors term of office is four years starting on the fourth calendar day after being elected and finishing on the fourth calendar day after the date of the election four years later, unless they have been elected by a by-election when the term is the remainder of the vacated office they have filled.

### **2K.3 Duties of Councillors**

The Duties of all Councillors include:

- To fulfil the statutory and locally determined requirements of an elected Member of the Council;
- To participate effectively as a Member of any working group to which the

- Councillor is appointed;
- To participate in the activities of an outside body to which the Councillor is appointed;
  - To participate, as appointed, in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its residents.
  - To participate in Working Groups;
  - To represent the Council to the community and the community to the Council and to other relevant bodies. To provide a voice and advice for local individuals and interest groups in their dealings with the Council and, where appropriate, to advise them on the pursuit of complaints;
  - To develop and maintain a working knowledge of the Council's services, management arrangements, powers and duties and constraints and to develop good working relationships with relevant officers of the Council;
  - To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the Community's well-being and identity, including developing and maintaining good working relationships with local Town and Parish Councils and with local County Councillors.
  - To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the government of the area.
  - To keep up to date with all developments affecting the District and the Council including Government policies and prospective legislation.

#### **2K.4 Rights of Councillors**

- Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- Councillors will not make public information which is confidential or exempt without the consent of the Council or the Monitoring Officer or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- Councillors shall not request to inspect any document or have access to any information relating to any matter in which they have a disclosable pecuniary interest unless they have received a dispensation from the Monitoring Officer;
- No Councillor shall have any claim by virtue of their position to enter any land or buildings occupied by the Council to which the public do not have access except with the permission of the management team; to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised by the Council; to exercise any other powers of the Council.

#### **2K.5 Conduct**

Councillors will, when acting in their capacity as a Councillor, observe the Members Code of Conduct at Part 6A of this Constitution, and observe the Member / Officer Protocol in Part 6B of the Constitution.

**2K.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members Allowance Scheme adopted by full Council.

**2K.7 Political Groups**

Councillors may belong to political groups. The groups are entitled to nominate Councillors to fill a proportion of the seats on certain Committees of the Council.

At meetings of the full Council, the Executive and Committees, individual Councillors may have regard to the views of their political group on policy matters, provided that they also take into account all other considerations. However, this would not apply to the determination of individual regulatory matters.

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## **2L Article 12 – Officers of West Oxfordshire District Council**

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### **2L.1 Employment of Staff**

The Council may employ such staff (referred to as ‘officers’) as it considers necessary to undertake the day-to-day operations arising out of the functions for which the Council is responsible. Staff employed by a body other than the Council (e.g. Publica Group) may, by law, be Officers of the Council.

### **2L.2 Statutory Officers**

There are three officers which statute states must be appointed to the staff of the Council, namely the Head of Paid Service, the Chief Finance Officer (section 151 Officer) and the Monitoring Officer. These officers have special protection of employment rights and are known as the Council’s Statutory Officers.

### **2L.3 Functions of the Head of Paid Service (Chief Executive)**

- This Officer is responsible as the employer of the salaried staff employed directly by the Council. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

### **2L.4 Functions of the Chief Finance Officer (s151 Officer)**

- This role has a personal responsibility, which requires the Officer to act independently of the Council but in the best interests of the Council. They have the responsibility of ensuring the lawfulness and financial prudence of decision making. After consulting the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council’s external auditor if they consider that any proposal, decision or course of action is likely to cause a loss or a deficiency or if the Council is about to enter an item of account unlawfully.
- They have responsibility for the administration of the financial affairs of the Council.
- They contribute to the corporate management of the Council, in particular through the provision of professional finance advice.
- They provide financial information to the media, members of the public and the community.

## **2L.5 Functions of the Monitoring Officer**

- This role has a personal responsibility, which also applies to the Deputy Monitoring Officer, and requires the Officer to act independently of the Council but in the best interests of the Council.
- Their role is to promote and maintain high standards of conduct within the Council by Officers and members.
- They must maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, officers and the public.
- They must ensure the lawfulness and fairness of decision-making. After consultation with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to Full Council if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being given effect to until the report has been considered.
- They must promote ethical governance to Parish councillors and the operation of the Code of Conduct for councillors.
- They contribute to the promotion and maintenance of high standards of conduct.
- They receive and act upon complaints made in respect of breaches of the Code of Conduct and undertake or arrange investigations where necessary.
- They manage the Standards regime and complaints into allegations of misconduct by councillors.
- They are the Proper Officer for access to information.
- The Monitoring Officer will ensure that decisions together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- They contribute to the corporate leadership team of the Council
- They provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity to all councillors and will support and advise councillors and officers in their respective roles.
- They appoint their own Deputy Monitoring Officer, to act as the Monitoring Officer, in their absence.

## **2L.6 Provision of sufficient resources to the Chief Executive, Chief Finance Officer and Monitoring Officer**

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

The core roles of the Corporate Leadership Team shall be exercised in accordance with the principles of political neutrality and service to the whole Council, are as follows:

- Overall corporate and strategic management and ultimate operational responsibility (including overall management responsibility for all officers).

- Responsibility for regularly liaising with the Leader of Council to identify, review and prioritise the corporate agenda for the medium term of three years and specifically the key strategic and financial issues which the Council will be considering over each four month period.
- Responsibility for publishing regularly the key strategic policy issues and financial proposals
- Provision of professional advice to all parties in the decision making process (Full Council, Overview and Scrutiny Committee and policy and regulatory committees).
- Responsibility for ensuring the provision of sufficient resources to undertake the functions of the Council to the standard of service identified in corporate objectives.
- Responsibility for a system of record keeping for all the Council's decisions.
- Representing the Council on partnership and external bodies (as required by statute or the Council).

## **2L.7 Conduct**

Officers will comply with the Member / Officer Protocol found at Part 6B of the Constitution and with the Officer Code of Conduct.

## **2L.8 Employment**

The recruitment, selection and dismissal of Officers, including the Statutory Officers, will comply with the Officer Employment Procedure Rules found in Part 5K of the constitution.



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## 2M Article 13 – The Public and the Council

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### 2M.1 Voting and Petitions

The electoral register for the area will contain those members of the public who are eligible to have the right to vote in the elections of councillors and to sign a petition to request a referendum for an elected mayoral form of constitution.

### 2M.2 Information

Members of the public have the right to:

- (i) Attend meetings of the Council and its Committees and Sub-committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) Attend meetings of the Executive except where confidential, exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) Be made aware through the Executive Work Plan what and when key decisions will be considered by the Executive;
- (iv) See reports and background papers, and any records of decisions made by the Council, the Executive and any Committees;
- (v) Obtain a copy of the Constitution (for a reasonable fee);
- (vi) Inspect the Council's accounts and make their views known to the external auditor;
- (vii) Request disclosure of information in accordance with the provisions of the Freedom of Information Act 2000, Environmental Information Regulations 2005 and General Data Protection Regulations and any other legislation which is subsequently enacted to add to or replace this legislation;
- (viii) Raise questions at public meetings of the Council, Executive and Committees.

### 2M.3 Participation

Members of the public have the opportunity to participate in question time at Full Council meetings and may be invited to contribute to investigations and inquiries by the scrutiny and review committees. Interested persons in a planning application may request an opportunity to address the relevant planning committee on the application in accordance with the adopted [public speaking protocol](#) but this does not give any one the absolute right to be heard by the committee.

### 2M.4 Complaints

Members of the public have the right to complain to:

- (i) The Council itself, under its adopted [customer feedback procedures](#);
- (ii) An elected Member;
- (iii) The Local Government and Social Care Ombudsman, although the Ombudsman may request that the Council's internal complaints process is exhausted first;
- (iv) The Council's External Auditor.

#### **2M.5 Councillor Call For Action**

Members of the public have the right to ask a local councillor to refer an issue to the Council's Overview and Scrutiny Committee for consideration. This is called 'Councillor Call For Action' and details of how this operates are set out at [Part 5C](#).

#### **2M.6 Local Petition Scheme**

The Council has agreed a local petitions scheme. This is set out in [Part 6E](#) of the Constitution. It provides details as to how the Council will respond to petitions.

## Part 3: Responsibility for Functions, Key Decisions and Executive Work Plan

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### 3A Principles of Decision Making

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3A.1 All decisions will be made in line with the Budget and Policy Framework and in accordance with the following principles:

- consideration of all relevant information
- compliance with finance, contract, and all other procedure rules
- ensure proper advice is taken and considered before decisions are reached
- where appropriate, consult with stakeholders and consider their responses before decisions are reached
- impartiality and an absence of bias or pre-determination
- any interests are properly declared
- decisions are properly recorded and published
- decisions are proportionate to the desired outcome
- respect for human rights
- equality impact assessments are undertaken and considered
- climate change impacts are fully assessed and understood before decisions are made
- approach decision making on a transparent and open basis and decisions will be taken in a public forum wherever possible
- consideration of alternative options
- reasons are given for decisions
- consideration is given to all financial implications

3A.2 The Council has arranged for some of its functions to be carried out by officers employed by Publica Group (Support) Limited, which is a company operated by the Council in partnership with Forest of Dean District Council, Cheltenham Borough Council and Cotswold District Council. Where it is necessary for delegated functions to be carried out by the Council, these will be delegated to officers who have a joint contract of employment with the Council. A “joint contract” is a contract of employment for Officers employed to undertake functions by both Publica and West Oxfordshire District Council.

The Council has also arranged for some of its functions to be carried out by the South West Audit Partnership and Counter Fraud Unit employed by Cotswold District Council. In cases where any of those functions need to be carried out by the Council a similar process in relation to the use of a joint employment contract will be utilised.

### 3A.3 Introduction

The Council consists of several distinct elements which are allocated certain functions by law. The most important elements are:

- Council (all councillors)
- Committees (undertaking specific functions delegated by Council / specified in law)
- The Executive (Leader and Cabinet)

These are the primary decision-making bodies within the Council, and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.

3A.4 This part of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.

3A.5 The law provides a framework under which functions:

- must not be the responsibility of the Executive – Non-Executive or Council Functions (see part 3B)
- may or may not be the responsibility of the Executive – Local Choice Functions
- must be the responsibility of the Executive – Executive functions (see part 3D)

3A.6 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions). Delegation of non-Executive Functions is set out in:

- [Part 3B 'Council Functions'](#),
- [Part 3C 'Committee Functions'](#) and
- [Part 4 'Officer Non-Executive Functions'](#).

3A.7 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Executive Member or an Officer. Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or Officer of another authority. The delegation of Executive Functions is set out in Part 3D 'Executive Functions' below.

3A.8 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.

## Key Decisions and Executive Work Programme

### 3A.9 Key Decisions

A Key Decision is an Executive decision that is likely to:

1. result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
2. be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the authority.

3A.10 The Council has decided that something is financially significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more or generates savings of £150,000 or more.

3A.11 Key Decisions shall only be taken by Executive, unless such a decision has been specifically delegated by the Leader to an Executive Member or an Officer or unless the Leader, Chief Executive (or, in their absence or where they are unable to act, the Director of Governance or Director of Finance) is making an urgent decision (as set out in the Council Procedure Rules).

3A.12 The Chief Executive will decide whether a decision will have a significant impact on two or more wards.

3A.13 A decision-taker may only make a Key Decision in accordance with the requirements of the [Access to Information rules](#).

3A.14 It is for the Chief Executive to decide which decisions are Key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a Key Decision.

3A.15 In considering whether a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:

- the effect on businesses and communities
- the expectation of the public and councillors as to whether the decision should be taken by the Executive
- the anticipated interest of the public and of councillors
- the effect on other council services and functions

### 3A.16 Executive Work Plan

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 say that the Council must publish a notice containing information about any key executive decision which will be taken. This

must be published 28 calendar days before the date of the decision and must contain information about any executive decision which will be taken by the Executive or an individual member of Executive in private session. The Executive Work Plan enables elected members, members of the public and the Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.

3A.17 The plan includes details of:

- items to be debated by the Executive which relate to policy or budget formulation
- items which will be subject to a recommendation to Council
- other matters to be considered by the Executive (when known)
- the names and responsibilities of current members of the Executive

3A.18 The Executive Work Plan is updated and published as a minimum monthly and covers all decisions proposed to be made by the Council, Executive, individual Executive members and Key Decisions made by officers within the following four months. In order to promote transparency of decision making it will also include details of any decisions that may be made within the next 12 months. Not all decisions will be known four months in advance and so advance notice of decisions will be included as soon as they become known

3A.19 There is also a requirement to publish details at least 28 calendar days in advance of any meeting if there is an intention to consider in private a Key Decision or any other executive decision - even if not a Key Decision. Both these requirements are achieved through the Executive Work Plan

3A.20 There may be occasions where it has not been possible to give notice of a Key Decision. When this occurs the following process must be followed:

- At least five clear working days before the decision is to be made the Monitoring Officer must inform (by written notice) the Overview & Scrutiny Committee
- A copy of the notice must be placed on the website and made available for public inspection.
- The Monitoring Officer will prepare and publish a notice on the website setting out the reasons why the item did not appear on the Executive Work Plan.

3A.21 In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear working days' notice of a Key Decision has to be given, or if an item has not appeared on the Executive Work Plan and a decision needs to be taken before the next edition of the Executive Work Plan is published, then the agreement of the Chair of the Overview & Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Executive Work Plan and why it missed the last edition of the Executive Work Plan.

3A.22 In either case, the Chair of the Overview & Scrutiny Committee must report on such consultations/agreements at the next meeting of the Overview & Scrutiny committee.

#### Call-in

3A.23 Call-in is the process which enables scrutiny to call-in a Key Decision to revisit it and delay its implementation. The process is intended to be used in exceptional circumstances for decisions which are believed to be contrary to the Council's decision making principles. More information regarding call-in can be found in Part 5 of the Constitution; Overview and Scrutiny Procedure Rules.

3A.24 As call-in delays the implementation of a decision there may be occasions, for example where it is necessary to protect the interest of the Council or public, where it is necessary to state in advance that call-in will not apply. In such circumstances the following process will apply:

- the Monitoring Officer will discuss the reasons for not applying the call-in rules with the Chair of the Overview and Scrutiny Committee;
- the decision making report will include details of the fact that the decision will not be subject to the rules of call-in and the views of the Chair of the Overview and Scrutiny Committee.

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**3B Council Functions**

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3B.1 The functions which may only be exercised by the Council are set out in the table below:

<b>Council Functions</b>	
1	Determine which plans, strategies and policies shall comprise the Council's Policy Framework and from time to time approve, adopt and amend those plans, strategies and policies.
2	Determine and amend the Council's Budget.
3	Approve a departure from the approved Policy Framework and / or the approved Budget.
4	Appoint and remove the Leader.
5	Change the executive arrangements of the Council.
6	Establish, abolish, and decide the terms of reference and the composition of Council and non-Executive Committees, and make appointments including co-opted members to them and other non-Executive bodies.
7	Make and amend Procedural Rules, Financial Rules and Contract Rules.
8	Change the name of the District or a Parish.
9	Elect a Council Chair and appoint a Council Deputy Chair.
10	Promote or oppose parliamentary or private members bills.
11	Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
12	Appoint an Electoral Registration Officer and Returning Officer for local government elections.

13	Make, amend, revoke, or re-enact by-laws.
14	Fill Council or Parish Council vacancies in the event of insufficient nominations.
15	Change ordinary year of election of parish councillors.
16	Confirm the appointment of the Head of Paid Service (Chief Executive) and designate officers as the Monitoring Officer and the S151 Officer.
17	Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council.
18	Establish and abolish Joint Committees (in respect of non-Executive functions).
19	Approve the Pay Policy Statement.
20	To appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken. To note the Leader's appointments to outside bodies in respect of Executive Functions, as advised.
21	Adopt or amend the Code of Conduct for Members.
22	Receive and consider statutory reports from the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer.
23	Authorise virements from the Council's approved Annual Revenue and Capital Budgets in excess of £150,000.
24	Certain functions of local authorities are classified as "Local Choice" functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. The Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Executive.
25	Approval and allocation of the Council's annual borrowing limit.
26	The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
27	Any resolution for whole Council elections.

28	Any change in the name of electoral areas.
29	Any decision as to whether a casino should be in the District.
30	To undertake the function of Trustee in respect of all Trusts held by the Council (where applicable).
31	Make changes to the Constitution (other than those which are delegated to the Monitoring Officer or any protocol which falls within the Terms of Reference of any Committee).
32	Delegating functions to other local authorities and deciding whether to accept such a delegation from another authority.
33	Set the Council Tax.
34	Approving the acquisition or disposal of land or property outside of the Council's Recovery Investment Strategy over £1,000,000.
35	Approving the acquisition or disposal of land and property made under the Council's Recovery Investment Strategy over £3,000,000
36	Conferring Honorary Titles upon Aldermen and Alderwomen.
37	All other matters which by law must be reserved to the Council.

### 3B.2 Policy Framework

The policy framework comprises the following plans and strategies:

- [Council Plan](#)
- [Community Safety Plan](#)
- Plans and strategies which together comprise the Development Plan (the [West Oxfordshire District Local Plan](#) and the Council's input into all relevant Oxfordshire planning documents
- [Pay Policy](#)
- Licensing Policy Statements (Licensing Act 2003 and [Gambling Act 2005](#))
- [Budget](#), which includes:
  - [The Medium-Term Financial Strategy](#)
  - Capital Programme
  - Setting the Council Tax
  - Decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits
  - The Capital, Treasury Management and Investment Strategies

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### 3C Committee Functions

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- 3C.1 Council has established the Committees set out in the table below to discharge certain functions but retains the right to a concurrent and overriding exercise of all functions in the table below. Unless otherwise required by law, a Committee or Sub-Committee may determine not to exercise a function delegated to it and refer that function upwards for determination by Council or the ‘parent’ Committee
- 3C.2 The Council must have at least one Overview and Scrutiny Committee
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Table below include such Sub-Committees. (If applicable)

<b>Overview and Scrutiny Committee</b>	
To perform a broad-based overview and scrutiny role across all areas of the Council, while discharging the functions conferred by the Local Government Act 2000 as amended and any associated regulations, including:	
1	Co-ordinate, champion, and lead on the scrutiny of Council and Executive decisions. Ensure consistency and compatibility between the policies and strategies of the Council contributing to the Continuous Improvement of Public Services.
2	Have all of the functions, powers and duties conferred by Section 21 of the Local Government Act 2000 (as amended) including: <ul style="list-style-type: none"> <li>- To review and scrutinise decisions</li> <li>- To make reports and recommendations to Council or Executive in relation to the discharge of any functions</li> <li>- To make reports and recommendations to Council or Executive on matters which effect the Council’s area or its residents</li> </ul>
3	Determine the allocation of work in the event that the scope of the subject matter of a scrutiny study or investigation overlaps the role of more than one Sub-Committee or Working Group.
4	Review the operation of the scrutiny process and work programmes of the Overview & Scrutiny Sub Committees and Working Groups and inform and advise Council in relation to priorities and the allocation of resources.

5	Oversee and review the resources, support, training, and development of Overview & Scrutiny Members.
6	Develop a positive “critical friend” approach to the role of scrutiny of the Council and Community issues and Review and scrutinise decisions made, or other action taken, by the Executive collectively or by individual Executive Members.
7	Provide and co-ordinate the input to an annual report to Full Council on such issues or topics as the Committee sees fit and Produce special interest reports following topic reviews.
8	Consider the management of matters called in for review under the Overview and Scrutiny Rules.
9	Consider matters referred to it by the Councillors’ Call for Action.
10	Review and scrutinise the work of the Executive and consider, and comment, on the Corporate Plan, Community Strategy; and the draft Medium Term Financial Strategy, and annual Budget.
11	Review and scrutinise the content of the Executive Work Plan and monitor that actions required arising out of decisions made are implemented and evaluate the impact of decisions made.
12	Review and scrutinise the decisions and policies of the Council (N.B. This does not apply to decisions made on quasi-judicial matters but can apply to the process by which such decisions are made).
13	Consider any matters which affect the authority, the District, or its residents. Liaise with other external organisations operating in the District, whether national, regional or local, to ensure that the interests of local people are protected or enhanced by collaborative working.
14	Overview the development of policies and strategies within the Council and scrutinise the effectiveness of the Council’s policies and strategies, in particular in achieving defined outcomes or objectives. Assist in the development of new policies and strategies, or the review of existing ones.
15	Review and assess the Council’s overall performance in relation to its policy objectives, performance targets and budgets and/or particular service areas, and make recommendations thereon to the Executive and/or the Council.
16	Review and assess the quality of service delivery, performance and efficiency across the Council, identify and promote best practice and make recommendations thereon to the Executive and/or the Council.

17	Consider and comment on service reviews/transformation.
18	Participate in county-wide joint scrutiny arrangements. Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
19	Review and scrutinise the performance of other public bodies in the area (inviting reports from them by requesting them to address the Committee and local people about their activities and performance).
20	Act as the Council's Crime and Disorder Committee, having all the powers and functions, powers and duties conferred by Section 19 of the Crime and Justice Act 2006.
<b>Powers</b>	
21	<p>The Committee has the power to:</p> <p>Require the attendance of any Council Officer and/or Elected or Co-opted Members in order to respond directly to any issue under consideration;</p> <p>Report and make recommendations to Council and/or to the Executive;</p> <p>To review any issues referred to it by the Chief Executive, other Statutory Officer, or any other Council body;</p> <p>To call expert witnesses from outside the Council to give advice on matters under review or discussion; and</p> <p>To establish Sub-Committees and Working Groups</p>
<b>Membership</b>	
22	<p>There are 24 seats on the Overview and Scrutiny Committee. Appointment to such seats shall be by full Council in accordance with the regulations regarding political balance, unless a Group Leader confirms that a political group does not wish to take up their allocation of seats.</p> <p>The quorum for a meeting of the Overview and Scrutiny Committee is 6 members.</p> <p>No member of the Executive may be allocated a seat on the Overview and Scrutiny Committee.</p>

Subject to Part 5A paragraph 2.3.8, substitute Members are permitted from all Members of the Council, other than Executive Members who may not act as a substitute Member on an Overview and Scrutiny Committee.

The Overview and Scrutiny Committee shall elect its own Chair.

The Overview and Scrutiny Committee has the power to establish a Sub-Committee, from the membership of the Committee, to appoint members to that Sub-Committee, and to establish its terms of reference. Any such Sub-Committee shall elect its own Chair and shall report back to its 'parent' Committee. The powers of any Sub-Committee are also exercisable by its 'parent' Committee.



## Development Control Committee

The Council separates its Planning decision making into four areas;

- decisions which are delegated to officers
- decisions in relation to the wards in the Uplands area of the District
- decisions in relation to wards in the Lowlands area of the District; and
- decisions of the Development Control Committee (such decisions relate to applications which in the opinion of the Senior Officer with Responsibility for Planning, are of significant local importance e.g. major housing development, or where either the Uplands or Lowlands Committee propose to make a decision which would be unlawful, seriously undermine policy, set adverse precedent or result in substantial costs being awarded against the Council)

The responsibilities detailed below relate to the Development Control Committee:

1	To determine planning applications, including those of strategic significance that affect the District as a whole, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.
2	To determine matters relating to planning as a Local Planning Authority excluding strategic planning matters such as the preparation, adoption and review of the Council's statutory Local Development Plan and representation of the Local Planning Authority's view to other bodies as appropriate on strategic planning matters.
3	Without prejudice to the above roles and the Council's Scheme of Delegation, the Development Control Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning and Development Control) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
4	<p>To determine:</p> <ul style="list-style-type: none"> <li>• Applications submitted by or on behalf of the District Council, or for development on Council owned land or where the Council has a direct interest, except where no objections are received or any application required in connection with flood prevention/alleviation schemes. For purposes of clarity, once the principle of development has been established by Committee, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Non-Executive Officer Scheme of Delegation.</li> <li>• Applications submitted by a serving Member or Officer of the Council or a consultant employed by the Council, or in which they have a beneficial interest (i.e. they own the land or are a prospective purchaser), or submitted by an immediate relative to the above; with the exception of applications made by non-Planning staff (excluding those in politically</li> </ul>

	restricted posts) for householder development.
	<ul style="list-style-type: none"> <li>• Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved or adopted by the Council for Development Management purposes.</li> <li>• Applications which involve an agreement under S.106 of the Town &amp; Country Planning Act 1990, or the proposed variation or discharge of a Section 106 deed, that materially differs from the Council's standard models or departs from the reasons for the original imposition of the obligation.</li> <li>• Applications which are accompanied by an Environmental Statement.</li> <li>• Applications for the felling of a tree(s) protected by a Tree Preservation.</li> <li>• Order (except where exempted by the Act) and not associated with an application for planning permission, where there are objections received.</li> </ul>
<b>Powers</b>	
5	<p>The Development Control Committee has the power to:</p> <ul style="list-style-type: none"> <li>• Make recommendations to the Executive on the budget for the Committee;</li> <li>• To report and make recommendations to Council;</li> <li>• Make recommendations to Full Council in terms of the level of delegation to Officers; and</li> <li>• To establish Sub-Committees and Working Groups.</li> </ul>
<b>Membership</b>	
6	<p>There are 24 seats on the Development Control Committee. Appointments to those seats shall be made by full Council in accordance with the regulations regarding political balance, unless a Group Leader confirms to Council that the political group does not wish to take up their allocation of seats.</p> <p>The quorum for a meeting of the Development Control Committee shall be 6 Members.</p> <p>The Development Control Committee shall elect its own Chair from its membership. No Member of the Executive may be elected to the position of Chair of the Development Control Committee, but they may be allocated a seat on the Committee.</p> <p>No Member may have a seat on the Development Control Committee, whether as a Member of the Committee or a substitute Member, when they meet to determine a planning application, unless they have undertaken mandatory training.</p> <p>Subject to Part 5A paragraph 2.3.8, substitute members are permitted from amongst any Elected Members of the Council, subject to compliance with the training provisions.</p> <p>The Development Control Committee has the power to establish Sub-Committees, and to appoint members to those Sub-Committees from the membership of the Committee, and to</p>

	<p>establish the terms of reference for any such Sub-Committee. Any such Sub-Committee shall elect its own Chair and shall report back to its 'parent' Committee. The powers of any Sub-Committee are also exercisable by its 'parent' Committee.</p> <p>The Development Control Committee has established 2 Sub-Committees:</p> <ul style="list-style-type: none"> <li>• The Uplands Sub-Committee, and</li> <li>• The Lowlands Sub-Committee</li> </ul>
	<p><b>The Uplands Sub-Committee</b></p>
	<p><b>Powers</b></p>
<p>I</p>	<p>The responsibilities detailed below relate to the Uplands Sub-Committee who shall have the following power in respect of decisions in relation to wards in the Uplands area of the District, which includes the Wards of:</p> <ul style="list-style-type: none"> <li>• Kingham, Rollright &amp; Enstone</li> <li>• Chipping Norton</li> <li>• The Bartons</li> <li>• Stonesfield &amp; Tackley</li> <li>• Chadlington &amp; Churchill</li> <li>• Ascott &amp; Shipton</li> <li>• Charlbury &amp; Finstock</li> <li>• Woodstock &amp; Bladon</li> <li>• Milton-under-Wychwood</li> <li>• Burford</li> <li>• Freeland &amp; Hanborough</li> <li>• Brize Norton and Shilton (Asthal parish area and Swinbrook and Widford parish area only)</li> <li>• Hailey, Minster Lovel and Leaford (Leafield parish area only)</li> </ul> <p>To determine planning applications, other than those of strategic significance that affect the District as a whole, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.</p> <p>To refer planning applications to the Development Control Committee where appropriate.</p> <p>To determine matters relating to planning as a Local Planning Authority excluding strategic planning matters such as the preparation, adoption and review of the Council's statutory Local Development Plan and representation of the Local Planning Authority's view to other bodies as appropriate on strategic planning matters.</p> <p>Without prejudice to the Council's Scheme of Delegation, the Uplands Sub-Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning</p>

	<p>and Development Control) of schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000.</p> <p>To determine:</p> <ul style="list-style-type: none"> <li>• Applications submitted by or on behalf of the District Council, or for development on Council owned land or where the Council has a direct interest, except where no objections are received or any application required in connection with flood prevention/alleviation schemes. For purposes of clarity, once the principle of development has been established by Committee, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Officer Scheme of Delegation.</li> <li>• Applications submitted by a serving Member or Officer of the Council or a consultant employed by the Council, or in which they have a beneficial interest (ie they own the land or are a prospective purchaser) or submitted by an immediate relative to the above; with the exception of applications made by non-Planning staff (excluding those in politically restricted posts) for householder development.</li> <li>• Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved or adopted by the Council for Development Management purposes.</li> <li>• Applications which involve an agreement under s106 of the Town and Country Planning Act 1990, or the proposed variation or discharge of a section 106 deed, that materially differs from the Council’s standard models or departs from the reasons for the original imposition of the obligation.</li> <li>• Applications which are accompanied by an Environmental Statement.</li> <li>• Applications for the felling of a tree or trees protected by a Tree Preservation Order (except where exempted by the Act) and not associated with an application for planning permission, where there are objections received.</li> </ul>
	<p><b>Membership</b></p>
<p>2</p>	<p>The Uplands and Lowlands sub-committees must have a minimum of 10 members, with the Chair of the Development Control Committee being appointed to both sub-committees and all other members of the Development Control Committee being appointed to either the Uplands or Lowlands sub-committee, depending on the ward they represent. Where wards cross the Lowlands and Uplands boundary the ward member may be appointed to either sub-committee.</p> <p>Quorum for meetings of the Uplands Sub-Committee shall be 4 Members.</p> <p>Membership of the Uplands Sub-Committee must be from the membership of the Development Control Committee. Members are allocated to the Sub Committee by the Development Control Committee. Allocation of seats on the Uplands Sub Committee shall be in accordance with the regulations relating to political balance of Committees and Sub-Committees, unless political groups confirm that they do not wish to take up their allocation of seats on the Sub-Committee. If so, that would allow the Development Control Committee to appoint to the Uplands Sub-</p>

	<p>Committee without regard to political balance, but only from within its own membership. Usual custom and practice has resulted in appointments being made on the basis of Ward Members of the Uplands area of the District.</p> <p>Subject to Part 5A paragraph 2.3.8, substitutes on the Uplands Committee are permitted from any Member of the Council. No Member may sit on the Uplands Sub Committee, either as a Member or a substitute Member, unless they have undertaken the mandatory training.</p> <p>The Uplands Sub-Committee shall elect their own Chair from their membership. An Executive member may not be the Chair of the Uplands Sub-Committee, but may be a member of that Sub-Committee.</p>
<p><b>Lowlands Sub-Committee</b></p>	
<p><b>Powers</b></p>	
<p>I</p>	<p>The responsibilities detailed below relate to the Lowlands Sub-Committee who shall have the following powers in respect of decisions in relation to Wards in the Lowlands area of the District, which includes the Wards of:</p> <ul style="list-style-type: none"> <li>• Hailey, Minster Lovell &amp; Leafield (except for the Leafield parish area)</li> <li>• Witney Central</li> <li>• Witney North</li> <li>• North Leigh</li> <li>• Brize Norton &amp; Shilton (except for the Asthal parish area and the Swinbrook and Widford parish area)</li> <li>• Witney West</li> <li>• Witney East</li> <li>• Eynsham &amp; Cassington</li> <li>• Witney South</li> <li>• Carterton North West</li> <li>• Carterton North East</li> <li>• Carterton South</li> <li>• Ducklington</li> <li>• Alvescot &amp; Filkins</li> <li>• Bampton &amp; Clanfield</li> <li>• Standlake, Aston &amp; Stanton Harcourt</li> </ul> <p>To determine planning applications, other than those of strategic significance that affect the District as a whole, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.</p> <p>To refer planning applications to the Development Control Committee where appropriate.</p>

	<p>To determine matters relating to planning as a Local Planning Authority excluding strategic planning matters such as the preparation, adoption and review of the Council’s statutory Local Development Plan and representation of the Local Planning Authority’s view to other bodies as appropriate on strategic planning matters.</p> <p>Without prejudice to the Council’s Scheme of Delegation, the Lowlands Sub-Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning and Development Control) of schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000.</p> <p>To determine:</p> <ul style="list-style-type: none"> <li>• Applications submitted by or on behalf of the District Council, or for development on Council owned land or where the Council has a direct interest, except where no objections are received or any application required in connection with flood prevention/alleviation schemes. For purposes of clarity, once the principle of development has been established by Committee, subsequent applications to discharge conditions or for minor variations may be determined in accordance with the Officer Scheme of Delegation.</li> <li>• Applications submitted by a serving Member or Officer of the Council or a consultant employed by the Council, or in which they have a beneficial interest (ie they own the land or are a prospective purchaser) or submitted by an immediate relative to the above; with the exception of applications made by non-Planning staff (excluding those in politically restricted posts) for householder development.</li> <li>• Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved or adopted by the Council for Development Management purposes.</li> <li>• Applications which involve an agreement under s106 of the Town and Country Planning Act 1990, or the proposed variation or discharge of a section 106 deed, that materially differs from the Council’s standard models or departs from the reasons for the original imposition of the obligation.</li> <li>• Applications which are accompanied by an Environmental Statement.</li> <li>• Applications for the felling of a tree or trees protected by a Tree Preservation Order (except where exempted by the Act) and not associated with an application for planning permission, where there are objections received.</li> </ul>
	<p><b>Membership</b></p>
<p>2</p>	<p>The Lowlands and Uplands sub-committees must have a minimum of 10 members, with the Chair of the Development Control Committee being appointed to both sub-committees and all other members of the Development Control Committee being appointed to either Uplands or Lowlands sub-committee depending on the ward they represent. Where wards cross the Lowlands and Uplands boundary the ward member may be appointed to either sub-committee.</p>

Quorum for meetings of the Lowlands Sub-Committee shall be 4 Members.

Membership of the Lowlands Sub-Committee must be from the membership of the Development Control Committee. Members are allocated to the Sub Committee by the Development Control Committee. Allocation of seats on the Lowlands Sub Committee shall be in accordance with the regulations relating to political balance of Committees and Sub-Committees, unless political groups confirm that they do not wish to take up their allocation of seats on the Sub-Committee. If so, that would allow the Development Control Committee to appoint to the Lowlands Sub-Committee without regard to political balance, but still from within its own membership. Usual custom and practice has resulted in appointments being made on the basis of Ward Members of the Lowlands area of the District.

Subject to Part 5A paragraph 2.3.8, substitutes on the Lowlands Committee are permitted from any Member of the Council. No Member may sit on the Lowlands Sub Committee, either as a Member or a substitute Member, unless they have undertaken the mandatory training.

The Lowlands Sub-Committee shall elect their own Chair from within their membership. An Executive Member may not be the Chair of the Lowlands Sub-Committee, but may be a member of the Sub-Committee.

Licensing Committee	
1	<p>To undertake all matters in relation to the statutory licensing and registration functions of the Council (save to the extent that such responsibility has been delegated to another sub-committee of this Committee or Officer by the Council) such duties to include liquor, entertainment and late night refreshment licensing and the Gambling Act 2005. The Committee's role includes the formulation and approval of policy guidelines with the exception of the following which are dealt with by the Council:</p> <ul style="list-style-type: none"> <li>• Licensing Policy Statement - Licensing Act 2003</li> <li>• Gambling Policy - Statement of Principles - Gambling Act 2005.</li> </ul>
2	To hear and determine licence applications that are contentious and/or where objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant.
3	Without prejudice to the above roles and the Council's Scheme of Delegation the Licensing Committee shall be responsible for those matters set out in Parts B and C (Licensing and Registration functions) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the Licensing Act 2003 and the Gambling Act 2005.
4	The Licensing Committee shall be empowered to set up a sub-committee or sub-committees to discharge functions and act in accordance with powers delegated by the Committee. In the context of the Committee's powers under the Gambling Act 2005, sub delegation may extend to the permitted discharge of functions by an officer.
5	To receive reports and determine policy in relation to street trading.
6	To approve policy and to determine fees in relation to scrap metal dealer licensing.
<b>Powers</b>	
7	<p>The Licensing Committee has the power to:</p> <p>Report and make recommendations to Council; and</p> <p>Establish and appoint to Sub-Committees and Working Groups</p>



<b>Membership</b>	
8	<p>There are 11 seats on the Licensing Committee. Appointments to those seats shall be made by full Council in accordance with the regulations regarding political balance, unless a Group Leader confirms to Council that the political group does not wish to take up their allocation of seats.</p> <p>The quorum for a meeting of the Licensing Committee shall be 3 Members.</p> <p>The Licensing Committee shall elect its own Chair from its membership.</p> <p>No Member may have a seat on the Licensing Committee, whether as a Member of the Committee or a substitute Member, when they meet to determine a licensing application, unless they have undertaken mandatory training.</p> <p>Subject to Part 5A paragraph 2.3.8, substitute members are permitted from amongst any Elected Members of the Council, subject to compliance with the training provisions.</p> <p>The Licensing Committee has the power to establish Sub-Committees, and to appoint members to those Sub-Committees from the membership of the Committee, and to establish the terms of reference for any such Sub-Committee. Any such Sub-Committee shall elect its own Chair and shall report back to its 'parent' Committee. The powers of any Sub-Committee are also exercisable by its 'parent' Committee.</p> <p>The Licensing Committee has established 2 Sub-Committees:</p> <ul style="list-style-type: none"> <li>• The Miscellaneous Licensing Sub-Committee, and</li> <li>• The Licensing Panel Sub-Committee</li> </ul>

**Miscellaneous Licensing Sub-Committee**

Responsible for determining taxi, private hire and street trading applications in certain circumstances including when the applicant has previous convictions.

<b>Powers</b>	
1	To determine applications where relevant offences feature on the Disclosure Barring Service (DBS) check.
2	To consider representations as made or to review a licence

Membership	
3	<p>There are 5 seats on the Miscellaneous Licensing Sub-Committee.</p> <p>Quorum for meetings of the Miscellaneous Sub-Committee shall be 3 Members.</p> <p>Membership of the Miscellaneous Licensing Sub-Committee must be from the membership of the Licensing Committee. Members are allocated to the Sub-Committee by the Licensing Committee. Allocation of seats on the Miscellaneous Licensing Sub-Committee shall be in accordance with the regulations relating to political balance of Committees and Sub-Committees, unless political groups confirm that they do not wish to take up their allocation of seats on the Sub-Committee. If so, that would allow the Licensing Committee to appoint to the Miscellaneous Licensing Sub-Committee without regard to political balance, but still from within its own membership.</p> <p>Subject to Part 5A paragraph 2.3.8, substitutes on the Miscellaneous Licensing Sub-Committee are permitted from any Member of the Licensing Committee. However, no Member may sit on the Miscellaneous Licensing Sub Committee, either as a Member or a substitute Member, unless they have undertaken the mandatory training.</p> <p>The Miscellaneous Licensing Sub-Committee shall elect their own Chair from within their membership.</p>

Licensing Panel Sub Committee	
Responsible for determining Personal Licenses and Premises Licenses where representations are received, and for considering whether to grant Temporary Event Notices where objections are received from the Police or Environmental Health.	
Powers	
1	To determine applications where representations are made, or to determine a review application.
2	To review a personal licence.
Membership	
3	<p>There are 3 seats on the Licensing Panel Sub-Committee. Quorum for meetings of the Licensing Panel Sub-Committee shall be 3 Members.</p> <p>Membership of the Licensing Panel Sub-Committee must be from the membership of the Licensing Committee. Members are allocated to the Sub-Committee by the Licensing Committee. Allocation of</p>

seats on the Licensing Panel Sub-Committee does not need to be in accordance with the regulations around political proportionality, nor fixed for a specified period of time.

Usual practice is for the Chair or Vice-Chair of the Licensing Committee to sit on the Licensing Panel Sub-Committee, together with two other Members from the Licensing Committee. Such two other members to be drawn on an alphabetical rota basis from the remaining members of the Licensing Committee. In the event of a Member being unable to sit for a particular meeting, the next Member on the rota would be appointed, with the former eligible to sit at the next meeting instead. In the event of neither the Chair nor the Vice-Chair being able to sit, the third member of the Licensing Panel Sub-Committee would be drawn from the membership of the Licensing Committee under the usual rota system.

Subject to Part 5A paragraph 2.3.8, substitutes on the Licensing Panel Sub-Committee are permitted from any Member of the Licensing Committee. However, no Member may sit on the Licensing Panel Sub-Committee, either as a Member or a substitute Member, unless they have undertaken the mandatory training.

The Chair or Vice-Chair of the Licensing Committee will act as Chair of the Licensing Panel Sub-Committee. However, in their absence, the Licensing Panel Sub-Committee shall elect the Chair for that particular meeting from their membership.

## Audit and Governance Committee

### Governance, risk and control

I	<p>Monitor the adequacy and effectiveness of the Council's governance arrangements including:</p> <ul style="list-style-type: none"> <li>● Monitoring the effectiveness of the Chief Finance Officer's responsibility for ensuring an adequate internal control environment;</li> <li>● To approve the Risk Management Policy Statement and monitor its operation;</li> <li>● Monitoring the arrangements for the identification, monitoring and control of strategic and operational risk within the Council;</li> <li>● Monitoring the adequacy and effectiveness of the arrangements in place for combating fraud and corruption;</li> <li>● Providing an annual report to Council that its systems of governance are operating effectively, which includes the Committee's performance in relation to the terms of reference;</li> <li>● Reviewing and approving the annual Statement of Accounts, Annual Governance Statement and its associated assurance framework;</li> <li>● Considering the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;</li> </ul>
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	<ul style="list-style-type: none"> <li>● Ensuring that Internal Audit has the right of independent access to the Committee and its Chair;</li> <li>● Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice;</li> <li>● Considering and advising changes to the Council’s Constitution in respect of Contract Standing Orders and Financial Regulations;</li> <li>● Formulating and keeping under review a Code of Conduct to promote high ethical standards amongst Officers and doing anything that is considered to promote and maintain high standards of conduct by Officers;</li> <li>● Formulating and keeping under review the Council’s ‘whistle-blowing’ policy;</li> <li>● Formulating and keeping under review the Council’s arrangements for handling complaints and investigations by the Local Government Ombudsman, and</li> <li>● Monitor the adequacy and effectiveness of cyber security arrangements (the protection of information systems, hardware, software and associated infrastructure, the data on them, and the services they provide, from unauthorised access, harm or misuse). This includes harm caused intentionally by the operator of the system, or accidentally, as a result of failing to follow security procedures.</li> </ul>
<p><b>Ethics and Behaviours</b></p>	
<p>2</p>	<p>To promote, maintain and assist the achievement of high standards of conduct by Councillors and co-opted members in accordance with the Council’s Code of Conduct for Members.</p> <ul style="list-style-type: none"> <li>● To monitor the operation of the Code of Conduct for Members;</li> <li>● To advise the Council on any amendment or revision of the Code;</li> <li>● To secure adequate and appropriate training of Councillors and co-opted Members on the Code of Conduct for Members;</li> <li>● To give general guidance and advice to Councillors on Members’ interests and keep under review the Register of Members’ Interests maintained by the Monitoring Officer; and</li> <li>● To give general guidance and advice to Councillors and employees on gifts and hospitality;</li> <li>● To receive a report, at least annually, from the Council’s Monitoring Officer with a summary of conduct complaints received, trends and key issues arising.</li> </ul>
<p><b>External Audit</b></p>	

3	<p>Monitor the adequacy and effectiveness of the Council’s external audit service and respond to its findings. Specifically:</p> <ul style="list-style-type: none"> <li>● Considering the appointment, nature and scope of the external audit of the Council’s services and functions;</li> <li>● Receiving and considering all external audit reports including the annual plan, annual audit letter and governance report; and</li> <li>● Monitoring management’s response to the external auditor’s findings and the implementation of external audit recommendations.</li> </ul>
<b>Internal Audit</b>	
4	<p>Monitor the adequacy and effectiveness of the Internal Audit service. Specifically:</p> <ul style="list-style-type: none"> <li>● Approving the Internal Audit Charter;</li> <li>● Approving the annual risk based Internal Audit Plan;</li> <li>● Receiving communications from the Chief Internal Auditor on the internal audit activity’s performance relative to its plan and other matters, including the annual report and opinion;</li> <li>● Receiving and considering major Internal Audit findings and recommendations;</li> <li>● Monitoring management’s response to Internal Audit findings and the implementation of the recommendations;</li> <li>● Making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope and resource limitations;</li> <li>● Agreeing the scope and form of the external assessment as part of the quality assurance and improvement plan;</li> <li>● Receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance with professional standards; and</li> <li>● Approving significant consulting services not already included in the audit plan, prior to acceptance of the engagement, if this materially impacts on core assurance activity.</li> </ul>
<b>Powers</b>	
5	<ul style="list-style-type: none"> <li>● The Committee has the right to require the attendance of any Council officers and/or members in order to respond directly to any issue under consideration;</li> <li>● To review any issues referred to it by the Chief Executive, other statutory officer or any Council body;</li> <li>● The power to report and make recommendations to Council;</li> <li>● The power to call expert witnesses from outside the Council to give advice on matters under review or discussion;</li> <li>● The ability to raise issues at a meeting of the Executive; and</li> <li>● The power to establish Sub-Committees.</li> </ul>

	<b>Membership</b>
6	<p>There are 11 seats on the Audit and Governance Committee. Appointments to those seats shall be made by full Council in accordance with the regulations regarding political proportionality, unless a Group Leader confirms to Council that the political group does not wish to take up their allocation of seats. No members of the Executive may sit on the Audit and Governance Committee.</p> <p>The membership of the Audit and Governance Committee may also include up to two Independent Persons as non-elected co-opted members (without voting rights).</p> <p>The quorum for a meeting of the Audit and Governance Committee shall be 4 Members.</p> <p>The Audit and Governance Committee shall elect its own Chair from its membership.</p> <p>Subject to Part 5A paragraph 2.3.8, substitute members are permitted from amongst any Elected Members of the Council.</p> <p>The Audit and Governance Committee has the power to establish Sub-Committees, and to appoint members to those Sub-Committees from the membership of the Committee, and to establish the terms of reference for any such Sub-Committee. Any such Sub-Committee shall elect its own Chair and shall report back to its ‘parent’ Committee. The powers of any Sub-Committee are also exercisable by its ‘parent’ Committee, subject to when exercising the function of determination of a code of conduct complaint, the mandatory training must have been completed by all Members.</p> <p>The Audit and Governance Committee has established 1 Sub-Committee:</p> <ul style="list-style-type: none"> <li>• The Standards Sub-Committee</li> </ul>
<b>Standards Sub-Committee</b>	
	<b>Powers</b>
1	<p>The Standards Sub-Committee is responsible for determining, in conjunction with the Independent Person, allegations that Members of the Council, and Members of Town and Parish Councils where West Oxfordshire District Council is the Principal Authority, have failed to comply with their Member’s Code of Conduct. Specifically to determine allegations of breach of the code of conduct referred to it by the Monitoring Officer, and to, where appropriate, impose sanctions upon Members of West Oxfordshire District Council, and, where appropriate, recommend sanctions to the relevant Town or Parish Council in respect of their Members. Any such determination by the Standards Sub-Committee should</p>

	be made in accordance with the Standards Sub-Committee Procedure Rules as set out in Part 5E of the Constitution.
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<b>Membership</b>	
2	<p>There are 5 seats on the Standards Sub-Committee. Quorum for meetings of the Standards Sub-Committee shall be 3 Members.</p> <p>Membership of the Standards Sub-Committee must be from the membership of the Audit and Governance Committee. Members are allocated to the Sub-Committee by the Audit and Governance Committee. Allocation of seats on the Standards Sub-Committee shall be in accordance with the regulations relating to political proportionality of Committees and Sub-Committees, unless political groups confirm that they do not wish to take up their allocation of seats on the Sub-Committee. If so, that would allow the Audit and Governance Committee to appoint to the Standards Sub-Committee without regard to political balance, but still from within its own membership.</p> <p>Subject to Part 5A paragraph 2.3.8, substitutes on the Standards Sub-Committee are permitted from any Member of the Audit and Governance Committee. However, no Member may sit on the Standards Sub-Committee, either as a Member or a substitute Member, when determining a code of conduct complaint, unless they have undertaken the mandatory training.</p> <p>The Standards Sub-Committee shall elect their own Chair from within their membership.</p>

<b>Performance &amp; Appointments Committee</b>	
1	To recommend the appointment of the Chief Executive, Chief Financial Officer and Monitoring Officer to Council.
2	To consider all relevant matters relating to the salaries and contractual terms of the Chief Executive/Head of Paid Service and Statutory Officers.
3	To approve terms for the retirement of the Chief Executive/Head of Paid Service.
4	To conduct grievance and disciplinary matters in respect of the Statutory Officers in accordance with the statutory procedures and the Officer Employment Procedure Rules as set out at Part 5J of the Constitution.

5	To suspend the Chief Executive and/or Statutory Officers whilst an investigation takes place into alleged misconduct.
6	To conduct appraisals of the Chief Executive
7	To manage and consider any disciplinary and/or capability and/or any grievance matters arising in relation to the conduct or performance of the Statutory Officers
8	<p>To carry out the function of an Investigating &amp; Disciplinary Committee as set out in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers.</p> <p>In respect of Statutory Officers to:</p> <ul style="list-style-type: none"> <li>(a) decide whether the issues require any formal action; and if so,</li> <li>(b) whether the issue should be referred to an Independent Person;</li> <li>(c) be responsible for the appointment and terms of reference of the Independent Person;</li> <li>(d) receive and consider the report of the Independent Person; and</li> <li>(e) hold a capability or disciplinary hearing.</li> </ul> <p>Following receipt of any Independent Person’s report, to determine a course of action (up to and including dismissal) within the Council’s powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules. To make recommendations to Council in respect of the proposed dismissal of a Statutory Officer.</p>
9	To adopt and amend employment and health and safety policies.
<b>Powers</b>	
10	<p>The Performance and Appointments Committee has the power to:</p> <p>Make recommendations to Council on the appointment or dismissal of Statutory Officers;</p> <p>To report to and make recommendations to Council;</p> <p>To suspend statutory officers whilst an investigation is pending; and</p> <p>To appoint an independent person, or panel of independent persons to report to them.</p> <p>The Performance and Appointments Committee also has the power to establish Sub-Committees.</p>



	<p>In undertaking their duties the Performance and Appointments Committee must comply with the Officer Employment Procedure Rules set out at Part 5J of the Constitution.</p> <p>In undertaking their role in respect of recruitment, dismissal, conduct or performance, the Committee will be advised by an appropriate Officer with specialist knowledge of such matters, acting as advisor to the Committee.</p>
	<p><b>Membership</b></p>
11	<p>There are 5 seats on the Performance and Appointments Committee. Appointments to those seats shall be made by full Council in accordance with the regulations regarding political proportionality, unless a Group Leader confirms to Council that the political group does not wish to take up their allocation of seats. By practice and protocol, political groups usually appoint their most senior Members to the Performance and Appointments Committee, including the Group Leader.</p> <p>The quorum for a meeting of the Performance and Appointments Committee shall be 3 Members.</p> <p>The Performance and Appointments Committee shall elect its own Chair from its membership.</p> <p>Subject to Part 5A paragraph 2.3.8, substitute members are permitted from amongst any Elected Members of the Council.</p> <p>The Performance and Appointments Committee has the power to establish Sub-Committees, and to appoint members to those Sub-Committees from the membership of the Committee, and to establish the terms of reference for any such Sub-Committee. Any such Sub-Committee shall elect its own Chair and shall report back to its 'parent' Committee. The powers of any Sub-Committee are also exercisable by its 'parent' Committee.</p>

**Urgency and Emergency Decisions**

1	<p>The Chief Executive, or in their absence the Director of Governance in consultation with the Director of Finance (or in the absence of the Director of Governance, the Director of Finance in consultation with the Head of Legal Services, may take any necessary decision in cases of emergency.</p> <p>Emergency shall mean any situation in which the officer believes that immediate action is necessary and any failure to act would seriously prejudice the Council's or the public's interests.</p>
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	<p>Such interests are to be interpreted widely and include (but are not limited to) the risk of loss of life, serious injury to any person, significant damage to or loss of property, or serious threat to the health or wellbeing of an individual. A decision to take action includes the power to commence or defend legal proceedings in any court or tribunal</p> <p>Any decision under the above provisions shall be recorded on an Officer Decision Notice, regardless of value, and published, unless confidential or exempt. The decision shall be reported to Council, the Executive or the appropriate Committee or Sub-Committee, at the next reasonable opportunity, and such report shall include the reasons that the powers needed to be used.</p>
2	<p>The Chief Executive in consultation with the Chief Finance Officer and the Monitoring Officer, may take a decision in relation to any function of the Council, Executive or of a Committee or Sub-Committee where the matter is urgent and cannot reasonably await the next meeting of that body. In doing so, the Officer shall also consult with the Leader of the Council, or in their absence, the Deputy Leader of the Council and the Chair, or in their absence the Vice-Chair, of any relevant Committee or Sub-Committee, as the case may be.</p> <p>Any decision under the above provisions shall be recorded on an Officer Decision Notice, and published, unless exempt or confidential. The decision shall be reported to Council, the Executive or the appropriate Committee or Sub-Committee, such report to include the reasons that the powers needed to be used.</p>

### Working Groups

1	Working Groups may be formed by the Council, Executive, Executive Members, or by Committees, for ad hoc, project-specific tasks. Their work should be scoped upon formation, and time-limited and business to be discussed at any meeting will be prescribed in advance by terms of reference.
2	Whilst Members of the Council will be invited to participate, other persons may be invited to attend at the discretion of the 'body' that formed the working group.
3	Working Groups are designed to facilitate discussion and the exchange of ideas on specific topics, which could include policy development but are not decision-making bodies.
4	Working Groups will be serviced by subject matter expert officers and a record will be kept of the issues considered and the outcome of the Group's discussions will be circulated to body that formed the working group.
5	Working Groups may be formed to consider a cross-cutting issue, or to assist a scrutiny inquiry.

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### 3D Executive Functions

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- 3D.1 The Council 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. All functions of the Council that are not reserved by law as Non-Executive (see Part 3C above), are Executive functions. Except where the law otherwise provides, it is at the Leader’s discretion to determine how decision-making in relation to Executive functions will be exercised. All “Local Choice” functions (ie those specified in regulations under section 13(3)(b)) of the Local Government Act 2000) are Executive functions.
- 3D.2 The Leader may discharge any Executive functions directly or may arrange for the discharge of those functions by:
- the Executive
  - an Executive Committee
  - an individual member of the Executive (Executive Member)
  - an officer of the Council
  - another local authority
  - jointly with another local authority through a joint committee or Officer
- 3D.3 The Executive undertakes all Executive functions including:
- (a) proposing plans and strategies, including the overall Budget, the Policy Framework, and arrangements for the good governance of the authority, to Council to approve and adopt,
  - (b) publishing in the Executive Work Plan all decisions by the Executive, individual Executive members and Key Decisions made by officers,
  - (c) establishing Committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues,
  - (d) representing the Council locally, nationally, and international,
  - (e) attending meetings of the Overview & Scrutiny Committees and any Working Groups when required to do so,
  - (f) agreeing the acquisition and disposal of property (within limits set out in the Financial Rules and the Acquisition and Disposal Policy) and the management of the Council's land holdings,
  - (g) proposing acquisition or disposal of land and property to Council where the financial implications exceed the threshold delegated to the Executive,
  - (h) exercising the powers and duties of the Council in respect of leisure, museums, consumer protection and environmental health,
  - (i) acting as waste collection authority, and
  - (j) agreeing protocols for consultation and relations with outside bodies

3D.4 Delegations

The Leader has exercised the power of delegation in the manner set out below. A reference to ‘Executive Member’ means an Executive Member acting in portfolio and reference to ‘Officer’ means Chief Executive, Chief Finance Officer, Monitoring Officer, or designated senior Council or Publica employee, when acting as an employee of West Oxfordshire District Council.

3D.5 The Leader has directed that the Executive Functions delegated to Executive Members shall not be sub-delegated to Officers without prior consent.

3D.6 Each person or body to whom an Executive Function is delegated shall be empowered to take any step for the purposes of or in connection with the discharge of the Function and may do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.

3D.7 The Leader may amend these delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer (in this case the Monitoring Officer) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.

3D.8 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.

3D.9 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.

3D.10 The following delegations are currently in place.

Functions	Delegation
<p>The implementation of the approved policy and budget framework, except in relation to those functions identified as Council functions above, including the management, control and supervision of:</p> <ul style="list-style-type: none"> <li>● the Council’s own financial and property resources</li> <li>● housing and Council tax benefit</li> <li>● leisure, sports, arts and tourism services</li> <li>● housing provision, homelessness and the maintenance of the common waiting list</li> <li>● the preparation and review of the Development Plan and other planning policies and procedures</li> <li>● environmental health and protection</li> <li>● grounds maintenance</li> <li>● refuse collection, recycling and amenity cleansing</li> </ul>	<p>Functions delegated to the Chief Executive and Officers in accordance with <a href="#">Officer Scheme of Delegation (Part 4)</a></p>

<ul style="list-style-type: none"> <li>● measures to promote the economic, environmental and social well-being of the district</li> <li>● measures to promote community safety and reduce drug abuse</li> <li>● measures to promote skills training and development</li> <li>● measures in pursuit of the Council’s rural issues, anti-poverty, and climate change/environment/sustainability strategies</li> <li>● measures to promote high quality services to the communities of the district</li> </ul>	
<p><b>Subscriptions and Donations to Voluntary Bodies</b> - to approve the award of grants subject to any grant award not exceeding £1,000</p>	<p>Executive Member for Stronger Healthier Communities (in consultation with Chief Financial Officer)</p>
<p><b>Discretionary Rate Relief</b> – to grant discretionary rate relief in accordance with the Council’s Discretionary Rate Relief policy, except for those decisions already delegated to officers under the Officer Scheme of Delegation (Part 4)</p>	<p>Executive Member for Finance (in consultation with the Chief Financial Officer).</p>
<p><b>Debt Write-Offs</b> – to approve the writing off of debts, except for those already delegated to officers under the Officer Scheme of Delegation (Part 4) over £5,000 up to £10,000</p>	<p>Executive Member for Finance (in consultation with Chief Financial Officer)</p>
<p><b>Sport and Recreation Grants</b> – to determine applications for Sport and Recreation grants which accord with the Council’s approved criteria up to a maximum of £3,000 per grant</p>	<p>Executive Member for Stronger Healthier Communities (in consultation with Chief Financial Officer)</p>
<p><b>Village Hall Grants</b> – to determine applications for Village Halls (Minor Scheme) grants which accord with the Council’s approved criteria up to a maximum of £5,000 per grant</p>	<p>Executive Member for Stronger Healthier Communities (in consultation with Chief Financial Officer)</p>
<p><b>Arts and Sports Achievement / High Achievers Awards</b> - To determine applications for Arts and Sports Achievement Awards and High Achievers Awards which accord with the Council’s approved criteria up to a maximum of £300 per grant for the Arts and Sports Achievement Awards and £1,000 per grant for the High Achievers Award</p>	<p>Leader of the Council (in consultation with Chief Financial Officer)</p>
<p><b>Playground Grants</b> - To determine applications for Playground (Revenue) grants which accord with the Council’s approved criteria up to a maximum of £2,000 per grant and Playground (Capital) grants up to a maximum of £5,000 per grant</p>	<p>Executive Member for Stronger Healthier Communities (in consultation with Chief Financial Officer)</p>



## Part 4: Officer Scheme of Delegation

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### 4A Introduction

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Council has delegated to committees and officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended), which are not the responsibility of the Executive.

When exercising these delegated powers, officers should maintain a close liaison with the relevant committee chair and refer any proposed action to the relevant committee if required by the chair.

Officers may, in turn, authorise other officers to exercise their functions, or escalate the making of those decisions to Chief Executive or Director of Governance or Director of Finance but must ensure that such delegations are documented and are regularly reviewed.

Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others.

Any Non-Executive function may be exercised by the Chief Executive or the Director of Governance or Director of Finance notwithstanding its delegation to another officer (except those reserved by law to others).

In the absence of the Chief Executive The Director of Governance or Director of Finance is authorised to exercise any functions which are delegated to the Chief Executive Officers (or an officer authorised by them) may act on urgent matters, which would otherwise require reference to, or consultation with Council or a committee, if there is no time for such reference or consultation to be made; relevant committee chairmen should be consulted if time permits. All such decisions should be reported to the next meeting of Council or committee.

Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with The Openness of Local Government Bodies Regulations 2014.

In addition to the specific powers detailed in the tables below all powers necessary and appropriate for the operational discharge of functions, whether mandatory or discretionary are deemed delegated to the Senior Officer(s) with responsibility for discharging that function, or exercising that power, without a specific resolution of Council or Executive, unless the legislation requires a positive resolution or a specific procedure to be adopted before the function can be undertaken. Such delegated powers are to be exercised with due professional skill and diligence relevant to the post and are subject to the limitations, if any, set by the relevant committee and budgetary resources. Further, such delegated powers

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will be exercised in compliance with and consistent with the policy framework adopted by Council and in accordance with law and the principles of this constitution. The Senior Officers will be able to appoint such officers as they consider necessary to assist in the discharge of the functions.

For the avoidance of doubt the role of Head of Paid Service is held by the Chief Executive and the Section 151 Officer is the Chief Finance Officer.



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### 4B Statutory and Proper Officers

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The council has appointed Proper Officers for the purposes of the statutory provisions set out below. Power to appoint Proper Officers is delegated to the Head of Paid Service (Chief Executive), following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Council.

The Chief Executive and other senior officers shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their areas of responsibility set out below:

LOCAL GOVERNMENT ACT 1972		
Section	Purpose	Proper Officer
	Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the council	Monitoring Officer
	Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the council	Chief Finance Officer
83	Witness and receive declarations of Members' acceptance of office	Monitoring Officer
84	Receive written notice of Members' resignation from office	Chief Executive
88(2)	Convene Council meeting for election to vacant office of Chair	Chief Executive
89(1)(B)	Receive notice of casual vacancy from two local government electors	Chief Executive
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Monitoring Officer
100B(7)(c)	Decide whether copy documents supplied to Members should also be supplied to the press	Monitoring Officer
100C(2)	Produce a written summary of proceedings taken by a committee in private	Monitoring Officer
100D(1)(a)	Compile a list of background papers to a committee report	Officer in whose name the report is written
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Officer in whose name the report is written

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100F(2)	Identify which documents contain exempt information not open to inspection by all Members	Monitoring Officer
115(2)	Receive from Officers any money and property committed to their charge in connection with their office	Chief Finance Officer
138	Incurring expenditure essential to meet any immediate needs created by an emergency, or which is referable to Section 138 of the Local Government Act 1972. This should be done in accordance with the Council's Constitution.	Chief Executive, Managing Director, Directors, Assistant Directors and Heads of Service
151	Responsibility for the administration of the Council's financial affairs	Chief Finance Officer
191(2)77	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries	Chief Executive
210(6)-(7)	Exercise residual functions relating to charities	Chief Finance Officer
225(1)	Receive and retain documents deposited with the Council	Head of Legal Services
229(5)	Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original	Head of Legal Services
234(1)	Sign public notices, orders and other documents on behalf of the council	Head of Legal Services (generally) and the officers listed in the Scheme of Delegation within their area of responsibility
238	Certification of copy bylaws	Head of Legal Services
Sch.12 Pt I Para.4(2)(b)	Sign and send to all Members of the council the summons to attend meetings of the council	Chief Executive
Sch.12 Pt I Para 4(3)	Receive written notice from a Member of the address to which a summons to the meeting is to be sent	Monitoring Officer
Sch.16 Para 38	Receipt of deposit of lists of protected buildings (Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990	Senior Officer for Planning
Schedule 29, Para.4	Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer	Director of Governance or Director of Finance
Sch.29 Pt.I Para.4(1)(b)	Adaptation, modification and amendment of enactments	Head of Legal Services
<b>LOCAL GOVERNMENT ACT 1974</b>		

30(5)	Give public notice of receipt of a Local Government Ombudsman's report	Monitoring Officer
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>		
41	Certifying copy resolutions and minutes of proceedings	Head of Democratic and Electoral Services
<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>		
8	Appointment as Electoral Registration Officer	Chief Executive
35	Appointment as Returning Officer	Chief Executive
67(7)(b)	Receive declarations and give public notice of election agents' appointments	Chief Executive
81 and 89	Appropriate officer for the election of councillors	Chief Executive
82(4)	Receive declarations and give public notice of election agents' or candidates' election expenses	Chief Executive
131	Providing accommodation for holding election count	Chief Executive
<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>		
114, 115 and 115B	Responsibility for Chief Financial Officer reports	Chief Finance Officer
116(1)	Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Financial Officer (under section 114 and 115 above)	Chief Finance Officer
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>		
2(4)	Hold the council's list of politically restricted posts	Monitoring Officer
3A	In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted	Chief Executive
4	Designation as Head of Paid Service	Chief Executive
5(1)	Designation as Monitoring Officer	Monitoring Officer
5(7)	Nominated as Deputy Monitoring Officer	Head of Democratic and Electoral Services
15-17	Undertake all matters relating to the formal establishment of political groups within the membership of the council	Monitoring Officer
<b>THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990</b>		
8(1), 8(5), 9(b), 10, 13(1), 14 and 17	Notifications to and by the Proper Officer	Monitoring Officer

<b>LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22 LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012</b>		
7	Exclusion of whole or part of any reports to the Executive or Executive Member which contain exempt information	Head of Democratic and Electoral Services
10	Inform the relevant Overview and Scrutiny Committee Chair or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the “Forward Plan”) and make available or public inspection notices relating to this	Monitoring Officer
12	Produce a written statement of Executive decisions made at meetings	Head of Democratic and Electoral Services
13	Produce a written statement of decisions made by individual Executive Members	Head of Democratic and Electoral Services
14	Make a copy of written statements of Executive and Executive Member and officer executive decisions and associated reports available for inspection by the public	Head of Democratic and Electoral Services
15 and 2	Make available for inspection a list of background papers	Head of Democratic and Electoral Services
16(5)	Determine whether certain documents contain exempt information	Monitoring Officer
20	Determine whether documents contain confidential information or exempt information	Monitoring Officer
<b>LOCAL GOVERNMENT ACT 2000, SECTION 34 LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS 2000</b>		
4-5	Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000	Chief Executive
<b>REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES, RANKS AND POSITIONS) ORDER 2000</b>		
21, 22, 27, 28 and 29	Functions relations to the Regulation of Investigatory Powers Act 2000 (RIPA)	Chief Executive
<b>REGULATION OF INVESTIGATORY POWERS ACT 2000, SECTIONS 22(2)(B) AND 25(2); THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2010; THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010; THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE SOURCES: CODE OF PRACTICE) ORDER 2010</b>		

	Designated Senior Responsible Officer	Head of Counter Fraud and Enforcement Unit
<b>FREEDOM OF INFORMATION ACT 2000</b>		
36	Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs	Business Manager for Business Continuity, Governance and Risk
<b>LOCAL GOVERNMENT ACT 2003</b>		
25	When the annual budget report is considered by Executive or by the Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves	Chief Finance Officer
<b>LOCALISM ACT 2011</b>		
29	Establish, maintain and publish a Register of Interests	Monitoring Officer
33(1)	Receiving applications for dispensations	Monitoring Officer
33(2)	Grant dispensations to Members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest	Monitoring Officer
Sch.2, Pt1, Para.9FB	Designation as Scrutiny Officer	Head of Democratic and Electoral Services
<b>THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012</b>		
2, 7, 10, 12, 13-16, 20	Functions relating to the recording and publication of information relating to Executive decisions	Monitoring Officer
12-13	Grant dispensations in respect of conflicts of interest declared by a Executive member making a decision, or declared by a Executive member consulted by a member or officer taking such a decision	Monitoring Officer
69, 70 and 71	The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018	Data Protection Officer

In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, the Director of Finance or Monitoring Officer may be authorised by them to act as Proper Officer in their absence.

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In the event of any other designated officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.  
Notwithstanding the above, a Proper Officer may at any time delegate or authorise other officers to perform the designated duties on their behalf.

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**4C Functions in relation to Legal Services**

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No.	Function	Act or Statutory Instrument (where applicable)	Responsibility/Decision Maker
1.	To institute and defend in their own name all appropriate legal proceedings in any court, for and on behalf of the Council, where a decision has been made, whether under delegated authority of an officer or by Executive, Council or committee, and which relates to a regulatory or enforcement power.	n/a	Head of Legal Services
2.	Where the Council is engaged in any litigation, to have the conduct of the matter and full authority to receive any information in connection therewith and to settle or compromise any proceedings as they deem appropriate and expedient for the Council's interests.	n/a	Head of Legal Services
3.	Authority to instruct private practice solicitors or suitable counsel to undertake legal work when considered necessary or appropriate.	n/a	Head of Legal Services
4.	To prosecute any offence of obstructing staff in the course of their official duties.	n/a	Head of Legal Services
5.	Authority to obtain counsel's opinion provided that regular reports are made to Council on the costs of litigation.	n/a	Head of Legal Services

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6.	In consultation with the Chief Executive to set charges for legal work rechargeable to external persons or organisations.	n/a	Head of Legal Services
7.	Recovery matters - Authority to act on the Council's behalf in respect of attendance at the Magistrates Court and the County Court on all recovery matters, including applications for a committal warrant and attendance at valuation tribunals as appropriate.	n/a	Head of Legal Services
8.	Issue notices under the provisions of the Drainage Acts	n/a	Head of Legal Services
9.	Court Attendance	Section 223 of the Local Government Act 1972	Members of the Legal Services team may be authorised to prosecute or defend actions and/or cases, and to represent the Council, in any Magistrates' Court proceedings or County Court proceedings, valuation tribunals and planning inquires as appropriate, subject to the Head of Legal Services being satisfied with their legal competence
10.	Authority to complete Planning Agreements	Section 106 of the Town and Country Planning Act 1990 and Section 38 and 278 of the Highways Act 1980	Head of Legal Services
11.	Power to apply the common seal of the Council and sign documents		Chief Executive, Director of Finance, Monitoring



## Constitution of West Oxfordshire District Council

			Officer and Head of Legal Services
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**4D Functions in relation to Licensing**

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No.	Function	Act or Statutory Instrument (where applicable)	Responsibility/Decision Maker
1.	Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960	Senior Officer Responsible for Operational Services
2.	Power to licence the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936	Senior Officer Responsible for Operational Services
3.	Power to licence hackney carriages and private hire vehicles.	<p>As to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</p> <p>As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</p>	Senior Officer Responsible for Licensing and Business Support or refer to Miscellaneous Licensing Sub Committee if previous convictions or required by Policy Guidelines

4.	Power to licence drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	Senior Officer Responsible for Licensing and Business Support or refer to Miscellaneous Licensing Sub Committee if previous convictions
5.	Power to licence operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	Senior Officer Responsible for Licensing and Business Support or refer to Miscellaneous Licensing Sub Committee if required by Policy Guidelines
6.	Any function of a licensing authority (including personal licences and premises licences).	Licensing Act 2003 and any regulations or orders made under that Act	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Panel if representations are received
7.	To exercise power of entry.	Section 179 of the Licensing Act 2003	Senior Officer Responsible for Licensing and Business Support
8.	Temporary event notice.	Licensing Act 2003, Part 5  The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Panel if police or environmental health objection received
9.	Any functions of a licensing authority in relation to gambling.	Section 163, 164 & 165 of the Gambling Act 2005	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received

10.	Temporary use notice (temporary gaming activities).	Section 215 of the Gambling Act 2005  Gambling Act 2005 (Temporary Use Notices) Regulations 2007	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
11.	Any functions related to gaming permits.	Sections 247, 271, 282, 283, and 289 and Schedules 10, 11, 13 and 14 of the Gambling Act 2005  Gambling Act (Club Gaming Permits) (Authorised Gaming) Regulations 2007  Gaming Machines in Alcohol Licensed Premises (Notification Fee) (England and Wales) Regulations 2007	Senior Officer Responsible for Licensing and Business Support
12.	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005	Senior Officer Responsible for Licensing and Business Support
13.	Functions relating to exchange of information.	Section 30 of the Gambling Act 2005	Senior Officer Responsible for Licensing and Business Support
14.	Functions relating to occasional use notices.	Section 39 of the Gambling Act 2005	Senior Officer Responsible for Licensing and Business Support
15.	Power to institute criminal proceedings.	Section 346 of the Gambling Act 2005	Head of Legal Services
16.	Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the Gambling Act 2005	Senior Officer Responsible for Licensing and Business Support

17.	Power to licence persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939	Senior Officer Responsible for Licensing and Business Support
18.	Street collection licence.	Sections 66 and 68 of the Charities Act 1992	Senior Officer Responsible for Licensing and Business Support
19.	Power to licence performances of hypnotism.	The Hypnotism Act 1952	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
20.	Power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13-17 of the Local Government (Miscellaneous Provisions) Act 1982	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
21.	Power to licence markets and street trading.	Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982	Senior Officer Responsible for Licensing and Business Support
22.	Power to issue scrap metal dealers' licences.	Scrap Metal Dealers Act 2013	Senior Officer Responsible for Licensing and Business Support or refer to Executive if previous convictions

23.	Power to licence premises for animal activities.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
24.	Power to licence zoos.	Section 1 of the Zoo Licensing Act 1981	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
25.	Power to licence dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976	Senior Officer Responsible for Licensing and Business Support or refer to Licensing Committee if representations are received
26.	Power to issue pavement licences.	Business and Planning Act 2000	<p>Delegations:</p> <p>Grant of an application where no objections have been received during the consultation period – Business Manager responsible for the Licensing Service or Licensing Team Leader.</p> <p>Grant or refusal of an application where objections have been received during the consultation period – Business Manager responsible for the Licensing Service or Licensing Team Leader, following consultation</p>

			<p>with the Chair of the Miscellaneous Licensing Sub-Committee.</p> <p>Revocation of a Licence – Business Manager responsible for the Licensing Service or Licensing Team Leader, following consultation with the Chair of the Miscellaneous Licensing Sub-Committee.</p>
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**4E Functions in relation to Regulatory Matters including Public Health, Environmental Health  
and**

**Health and Safety**

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No.	Function	Act or Statutory Instrument (where applicable)	Responsibility/Decision Maker
1.	Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974	Senior Officer Responsible for Operational Services
2.	Inspection of premises the subject of an application for registration as keeper of a Common Lodging House.	Section 283 of the Public Health Act 1936	Senior Officer Responsible for Operational Services
3.	Notices to be signed on behalf of the District Council.	Section 284 of the Public Health Act 1984  Section 29 of the Public Health (Control of Disease) Act 1984	Senior Officer Responsible for Operational Services

4.	Disinfection or destruction of verminous article.	Section 37 of the Public Health Act 1936	Senior Officer Responsible for Operational Services
5.	Public Health Protection Activities.	Section 129 of the Health and Social Care Act 2008	Senior Officer Responsible for Operational Services
6.	Duty to enforce Chapter I and regulations made under it.	Section 10(3) of the Health Act 2006	Senior Officer Responsible for Operational Services
7.	Power to authorise officers.	Section 10(5) and paragraph 1 of Schedule 2 of the Health Act 2006	Senior Officer Responsible for Operational Services
8.	Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007	Senior Officer Responsible for Operational Services
9.	Power to transfer enforcement functions to another enforcement agency.	Smoke free (Premises and Enforcement) Regulations 2006	Senior Officer Responsible for Operational Services
10.	The determination of Temporary Road Closure applications, where there is no objection from any statutory consultee	Town Police Clauses Act 1847.	Senior Officer Responsible for Operational Services, in consultation with a representative of Legal Services

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**4F Functions in relation to Planning**

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<b>Enforcement Functions</b>			
Ref.	Function	Delegated by:	Delegated to:
PE1.	<p>To authorise named officers to enter land under the following provisions:-</p> <p>(a) Section 324 of the Town and Country Planning Act 1990.</p> <p>(b) Sections 196a and 196b of the Town and Country Planning Act 1990.</p> <p>(c) Sections 214b and 214c of the Town and Country Planning Act 1990.</p> <p>(d) Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>	Development Control Committee	Head of Legal Services/ Senior Officer for Planning
PE2.	<p>To serve Requisitions for Information and Planning Contravention Notices under the following enactments:-</p> <p>(a) Section 330 of the Town and Country Planning Act 1990.</p> <p>(b) Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>(c) Section 89 of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p> <p>(d) Section 171c of the Town and Country Planning Act 1990.</p>	Development Control Committee	Head of Legal Services/ Senior Officer for Planning
PE3.	<p>To institute proceedings in the Magistrates' Court for any non-return of the notices referred to above.</p>	Development Control Committee	Head of Legal Services
PE4.	<p>To Serve Breach of Condition Notices.</p>	Development Control Committee	Senior Officer for Planning

PE5.	To serve Enforcement Notices.	Development Control Committee	Senior Officer for Planning
PE6.	To serve Notices under section 215 of the Town and Country Planning Act for remedying the condition of land and to undertake consequent legal or direct action in default to secure compliance with the notice and recover expenses reasonably incurred.	Development Control Committee	Senior Officer for Planning
PE7.	Under Section 187(B) of the Town and Country Planning Act 1990 and Section 222 of the Local Government Act 1972 to seek an injunction to secure compliance with planning legislation or restrain breaches or anticipated breaches of planning control including breaches of agreements under Section 106 of the Town and Country Planning Act 1990.	Development Control Committee	Head of Legal Services
PE8	In cases of urgency the following matters: Article 4 Directions Listed Building Enforcement Notices Stop Notices Tree Preservation Orders Building Preservation Orders Temporary Stop Notices	Development Control Committee	Senior Officer for Planning
PE9.	Powers of action under Section 225 of the Town and Country Planning Act 1990 relating to fly posting and/or as amended or extended by the Clean Neighbourhoods and Environment Act 2005.	Development Control Committee	Senior Officer for Planning
PE10.	To serve discontinuance notices relating to breaches of Advertisement Regulations.	Development Control Committee	Head of Legal Services
PE11.	To take enforcement action and institute legal proceedings in respect of breaches of the Hedgerows Regulations 1997.	Development Control Committee	Head of Legal Services
PE12.	Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.	Development Control Committee	Development Manager

PE13	Institute, defend and withdraw criminal or civil legal proceedings for offences, breaches of Planning legislation (including for Listed Building Regulations and Tree Preservation Orders; non-compliance with enforcement notices, Stop Notices, Temporary Stop Notices, Breach of Condition Notices, Section 215 Notices, and unauthorised advertisements).	Development Control Committee	Head of Legal Services
PE14.	To determine that no further action is required in respect of a breach of planning control which could have been dealt with under delegated powers through the grant of a planning permission had an application been submitted.	Development Control Committee	Senior Officer for Planning
PE15	To withdraw Enforcement Notices and Breach of Condition Notices when they have clearly been complied with and it is no longer possible for breaches to occur.	Development Control Committee	Senior Officer for Planning
PE16	The power to withdraw Article 4 Directions where it is no longer expedient to remove permitted development rights.	Development Control Committee	Senior Officer for Planning

Trees			
	Function	Delegated by:	Delegated to:
PT1.	In cases of urgency the making of Tree Preservation Orders.	Development Control Committee	Senior Officer for Planning
PT2.	Authority to confirm unopposed Tree Preservation Orders.	Development Control Committee	Senior Officer for Planning
PT3	<p>Authority to determine:</p> <p>(a) any application to carry out work to a tree(s) subject to a Tree Preservation Order;</p> <p>(b) any notification to carry out work to a tree within a Conservation Area.</p> <p>(Subject, in the case of a refusal recommendation, to prior consultation with the Ward Member(s)).</p>	Development Control Committee	Senior Officer for Planning / Development Manager
PT4	<p>To authorise named officers to enter land under the following provisions:-</p> <p>(a) Section 324 of the Town and Country Planning Act 1990.</p> <p>(b) Sections 196a and 196b of the Town and Country Planning Act 1990.</p> <p>(c) Sections 214b and 214c of the Town and Country Planning Act 1990.</p> <p>(d) Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>	Development Control Committee	Head of Legal Services / Senior Officer for Planning
PT5.	Authority to institute proceedings in the Magistrates' Court in respect of breaches of Tree Preservation Orders and Trees within Conservation Areas and non-compliance with Tree Replacement Notices.	Development Control Committee	Head of Legal Services

PT6	To determine Hedgerow Removal Notices and ancillary matters.	Development Control Committee	Senior Officer for Planning / Development Manager
PT7	To take enforcement action and institute legal proceedings in respect of breaches of the Hedgerows Regulations 1997.	Development Control Committee	Head of Legal Services
PT8	To deal with any consultation (subject to there being no objections) by the Forestry Commission under:  (a) Felling licence regulations.  (b) The Forestry Grant Scheme.  (c) Dedication Scheme.  or such schemes and regulations as may replace or supplement the above.	Development Control Committee	Senior Officer for Planning / Development Manager
PT9	To determine, following prior consultation with the local Member(s), that no further action is required in respect of a breach of control which could have been dealt with under delegated powers had an application been submitted.	Development Control Committee	Senior Officer for Planning / Development Manager

**Development Management**

	Function	Delegated by:	Delegated to:
PDM I	To authorise named officers to enter land under the following provisions:-  a) Section 324 of the Town and Country Planning Act 1990.  b) Sections 196a and 196b of the Town and Country Planning Act 1990.  c) Sections 214b and 214c of the Town and Country Planning Act 1990.	Development Control Committee	Head of Legal Services

	d) Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.		
PDM 2	To determine whether the prior approval of the Local Planning Authority is required for development falling within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).	Development Control Committee	Development Manager
PDM 3	Authority to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) and to offer screening and scoping opinions.	Development Control Committee	Development Manager
PDM 4	<p>To determine (with or without planning conditions or obligations) all planning applications and applications for Advertisement Consent, Listed Building Consent, Conservation Area Consent (as amended), Certificates of Lawfulness, Time Limit Extensions, Variation of Conditions (S73) or Prior Approval under the General Permitted Development Order under delegated powers, with the following exceptions:-</p> <p>(a) Planning Applications which within 28 days of the date of registration any District Councillor requests (in writing) that it be determined by the Committee/Sub-Committee, stating the planning reasons for such referral.</p> <p>(b) Applications where the intended decision would be a material departure from the provisions of the approved or draft development plan or other approved or adopted Council planning policies or Supplementary Planning Guidance.</p> <p>(c) Applications submitted by or on behalf of the Council or which, in the opinion of a Senior Officer for Planning, affect Council owned land and/or buildings.</p> <p>(d) Applications for floodlight masts exceeding 6m in height when operational and Planning Applications for telecommunications masts (with the exception that additional antennae may be allowed provided that the Government's safety guidelines are met).</p>	Development Control Committee	Senior Officer for Planning / Development Manager



	<p>NB Applications for telecommunication masts under the prior approval process can be determined under delegated powers.</p> <p>(e) Applications submitted by or on behalf of a Member or employee of the Council (or their spouse/partner) or where there may be a similar perceived or actual conflict of interest.</p> <p>(f) Applications which involve the proposed variation or discharge of a section 106 deed that materially differs from the Council’s standard models or departs from the reasons for the original imposition of the obligation.</p> <p>(g) Applications which the Senior Officer for Planning or Development Manager, considers should be referred to the appropriate Area Planning Sub-Committee for determination.</p> <p>(h) Applications where the views of the Town Council or Parish Council are clearly contrary to the proposed recommendation and cannot be resolved by condition or negotiation (with the exception of householder development or advertisement consent, which may continue to be delegated).</p> <p>(i) Applications submitted within one year of a dismissed appeal on the site where it is intended that the application be approved (other than where the approval would reflect the clear views of the Inspector when determining the initial appeal).</p> <p><b>Notes regarding PDM4:</b></p> <p>1) The restrictions set out in categories (a) to (i) above shall not apply to applications for a resubmission of an extant valid planning permission or to applications where the principle of the development has already been agreed by a previous permission/consent and the new proposal contains details generally consistent with the earlier permission and planning circumstances have not changed.</p> <p>2) The restrictions set out in categories (a) to (i) above shall not apply to any application seeking Reserved Matters consent where the principles have</p>		
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	<p>previously been agreed and the details are consistent with the criteria set out in the outline permission.</p> <p>3) The determining officer shall only exercise the delegated powers after taking into account all material planning considerations, including any written planning objections or representations which may have been received.</p> <p>4) The determining officer shall only exercise the delegated powers in accordance with planning legislation, regulations and procedures under which provision may be made for reference of applications to the Secretary of State or other statutory body.</p> <p>5) The determining officer shall only exercise the delegated powers following the expiry of the relevant consultation periods (with the proviso that where, because of the submission of the application in relation to the meeting date, it is not possible to deal with an application within the statutory period, then the application shall be referred to the Committee/Sub-Committee in advance of the expiry of the consultation period for Members to determine whether they wish to delegate determination of the application to Officers).</p> <p>6) The Senior Officer for Planning shall report details of all Planning applications determined under delegated powers to Members of the appropriate Area Planning Sub-Committee.</p>		
PDM 5	Where recommendations on a planning application or proposal are not accepted by the Area Planning Sub-Committee, the right to withdraw the application or proposal for final determination by the Development Control Committee.	Development Control Committee	Senior Officer for Planning
PDM 6	Authority to determine that a particular planning application or other matter shall be referred to the Development Control Committee for decision.	Development Control Committee	Senior Officer for Planning or Development Manager
PDM 7	Authority to deal with complaints about High Hedges under Part 8 of the Anti-Social Behaviour Act 2003.	Development Control Committee	Senior Officer for Planning or Development Manager

PDM 8	To determine discharge of conditions applications, Minor and Non Material Amendments	Development Control Committee	Development Manager/Case Officer
PDM 9	In cases of urgency the following matters:  Article 4 Directions  Listed Building Enforcement Notices  Stop Notices  Tree Preservation Orders  Building Preservation Orders  Temporary Stop notices	Development Control Committee	Senior Officer for Planning
PDM 10	Under Section 187(B) of the Town and Country Planning Act 1990 and Section 222 of the Local Government Act 1972 to seek an injunction to restrain breaches of planning control including breaches of agreements under Section 106 of the Town and Country Planning Act 1990.	Development Control Committee	Head of Legal Services
PDM 11	To determine, that no further action is required in respect of a breach of planning control which could have been dealt with under delegated powers through the grant of a planning permission had an application been submitted.	Development Control Committee	Senior Officer for Planning
PDM 12	Institute, defend and withdraw criminal or civil legal proceedings for offences breaches of Planning legislation (including for Listed Building Regulations and Tree Preservation Orders; non-compliance with enforcement notices, Stop Notices, Temporary Stop Notices, Breach of Condition Notices, Section 215 Notices, and unauthorised advertisements).	Development Control Committee	Head of Legal Services
PDM 13	The power to withdraw Article 4 Directions where it is no longer expedient to remove permitted development rights.	Development Control Committee	Senior Officer for Planning
PDM 14	To respond to applications for the winning and working of minerals or the use of land for mineral-working deposits (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward	Development Control Committee	Development Manager

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	Member, and with the Chair of the Development Control Committee and the Leader of the Council.		
PDM 15	To respond to applications for waste development (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward Member, and with the Chair of the Development Control Committee and the Leader of the Council.	Development Control Committee	Development Manager
PDM 16	Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.	Development Control Committee	Development Manager
PDM 17	Authority to submit observations on Traffic Orders to the Highway Authority.	Development Control Committee	Development Manager
PDM 18	To decide whether to decline to determine applications under sections 70a and 70b of the Town and Country Planning Act and sections 81a and 81b of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Development Control Committee	Senior Officer for Planning or Development Manager
PDM 19	To determine applications for Permission in Principle and Technical Details Consent.	Development Control Committee	Development Manager
PDM 20	To determine applications where a decision to return the matter to committee would result in the potential for the application fee to be refunded as no extension of time has been agreed.	Development Control Committee	Development Manager
PDM 21	To advertise applications for footpath diversions.	Development Control Committee	Development Manager
PDM 22	To respond to Oxfordshire County Council in respect of Regulation 3 and Regulation 4 proposals.	Development Control Committee	Development Manager

Conservation Areas			
	Function	Delegated by:	Delegated to:
PCI.	With the exception of either the designation of or an amendment to the boundaries of a Conservation Area, to exercise the Council's functions in relation to Conservation Areas.	Executive	Senior Officer for Planning

Neighbourhood Plans			
	Function	Delegated by:	Delegated to:
PNP.	To assess whether or not the Council is satisfied that the qualifying body of a Neighbourhood Development Plan have complied with the criteria in the Neighbourhood Planning (General) Regulations (2012) in order for the Plan to proceed to Regulation 16 Consultation and Examination, and where they have not, publish any decisions requiring further action by the qualifying body in a Decision Statement.	Executive	Head of Planning Services in consultation with the Executive Member responsible for Planning.

## NOTES

1. Where under any delegation consultation should be undertaken with the local member this should be i) by e-mail; and ii) for a period of three days and the delegation should only be undertaken after that period has expired and where there is no disagreement between members in multi member wards. No response will be taken as an agreement to the suggested action.
2. Changes to Officer titles, onward delegation and minor drafting changes to ensure that delegations operate at the most appropriate level are authorised without referral back to the Development Control Committee.

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**4G Other Miscellaneous Functions**

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No.	Function	Act or Statutory Instrument (where applicable)	Responsibility/Decision Maker
1.	<p>Commercial Property Rent Reviews and Agreement of New Leases and Licenses.</p> <ul style="list-style-type: none"> <li>• Assignment of leases, deeds of variation, surrender of leases and landlord consents</li> <li>• Granting of Tenancy at Wills</li> <li>• Granting of Licences</li> <li>• Granting of wayleaves and easements</li> <li>• Agreement of rent reviews, unless (i) the decision is likely to result in court action; or (ii) the financial value of the rent review makes it a key decision as defined in the constitution of the Council</li> <li>• Agreement of new leases and licences to an increased rent maximum of £50,000</li> <li>• Enforcement of the terms and conditions of any commercial lease or agreement</li> </ul>		<p>Senior Officer responsible for Property and Regeneration in consultation with the Executive Member responsible for Finance, the Director of Finance and the Head of Legal Services</p>
2.	<p>To approve future lettings at Marriott's Walk</p>		<p>Director of Finance in consultation with the Executive Members responsible for Finance and Economic Development.</p>

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## Part 5: Policy and Procedure Rules

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### 5A Council Procedure Rules

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## **RULE 1: Introduction**

### **1.1 Interpretation**

In these Council Procedure Rules the interpretation of words shall be in accordance with the definitions set out in the Glossary of Terms within the Constitution.

### **1.2 General**

A copy of these Council Procedure Rules shall be made available by the Monitoring Officer to every Member upon acceptance of Office. This may include access to an electronic copy of the rules. A copy is also available on the Council's website.

Any proposal to permanently alter these Council Procedure Rules (other than minor or consequential amendments made by the Monitoring Officer, or in accordance with delegated authority of the Council) other than a motion to implement a recommendation of the Constitution Working Group, shall be in the form of a motion instructing the Constitution Working Group to report to Council upon such proposals. Any such motion, upon being seconded, shall be put to the vote without discussion. The Constitution Working Group shall report to the next Ordinary Council Meeting upon any matter referred to it under this Council Procedure Rule, unless the motion specifies an alternative time frame.

These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.

Where any step or action under these Council Procedure Rules is prescribed to be performed by a Designated Officer, that Officer may nominate or authorise another Officer in his/her place.

In implementing and effecting these Council Procedure Rules, the Council will comply with its statutory obligations relating to the use, recording and retention of any personal data that it receives.

### 1.3 Notices

Any Notice required under these Council Procedure Rules may be given to the Monitoring Officer by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The listing of names as signatures on such documents shall be deemed to be signatures.

### 1.4 Person Presiding

Any ruling of the Person Presiding at any meeting on any point of order, interpretation of these Council procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. However, in reaching their decision, the person presiding must give due consideration to the advice of the Monitoring Officer, or their representative.

## RULE 2: Annual Meeting of Council

### 2.1 Date

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

Subject to these requirements, the meeting will be held at such place, on such date, and at such time, as may be fixed by the Council, subject to Council Procedure Rule 6 below.

### 2.2 Business

The annual meeting will conduct the following business in the following order:

- (i) Elect a Councillor, other than an Executive Member, to be the Chair of Council;
- (ii) Appoint a Councillor, other than an Executive Member, to be the Vice-Chair of Council;
- (iii) Receive apologies for absences;
- (iv) Receive any declarations of interests;
- (v) Approve the minutes of the last meeting;
- (vi) Receive any announcements from the Chair, Head of Paid Service, Chief Finance Officer and/or Monitoring Officer;
- (vii) Give a vote of thanks to the retiring Chair and Vice-Chair;
- (viii) Elect the Leader of the Council, if the term of office of the current Leader has come to an end;
- (ix) Receive a report from the Leader on the appointment of the Deputy Leader, Executive Members, Joint Executive Arrangements and the Executive Scheme of Delegations;
- (x) In an election year, receive the return of the Returning Officer;
- (xi) Establish such Committees as the Council considers appropriate to deal with matters which are neither reserved to full Council nor are Executive functions, including the Overview and Scrutiny Committee and a Sub-Committee to consider Standards and Ethics;
- (xii) Appoint Councillors to Committees, including Substitute Members;
- (xiii) Adopt the Council's Constitution and agree the Scheme of Officer Delegations, other than those relating to Executive functions;

- (xiv) Approve a programme of Ordinary Meetings of the Council for the year, if not already agreed;
- (xv) Consider any business set out in the notice convening the meeting; and
- (xvi) Consider any matters deemed urgent by the Chair, after having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

## **2.3 Selection of Councillors on Committees**

### **2.3.1 Election of the Chair**

At the annual meeting, the Council will elect a Chair of the Council and appoint a Vice-Chair. The current Chair will preside over the election of the successor, unless they are ineligible to do so, in which case the current Vice-Chair will do so. If both the Chair and Vice-Chair are ineligible to do so the Monitoring Officer will preside for the first agenda item to Elect the Chair.

### **2.3.2 Committees, allocation to seats to political groups and appointments**

The Council at its annual meeting will also decide upon which Committees to establish for the municipal year and the size of those Committees. Having received a report from the Monitoring Officer, it will decide the allocation of seats to political groups in accordance with the political balance rules. It will then receive nominations of Councillors to serve on each Committee and appoint to those Committees, in accordance with the wishes of the political groups and subject to any other statutory requirements, except where appointment to those bodies has been delegated by the Council or is exercisable by the Leader or the Executive.

### **2.3.3 Co-opted Members**

Where appropriate, the Council will also appoint non-voting co-opted members to Committees, including confirming the appointment of the statutory role of the Independent Person(s) for the municipal year.

### **2.3.4 Recommendations from Standards Sub Committee**

In making appointments of Councillors to Committees, the Council will have regard to any recommendations from the Standards Sub Committee as to the appropriateness or otherwise of the appointment of any Councillor to a particular Committee.

### **2.3.5 Training**

In considering nominations for appointments to the Development Control Committee, Licensing Committee and Audit & Governance Committee, in accordance with the Committees and Political Groups Regulations, Group Leaders shall take into account the requirements for training referred to in [Article 5 in Part 2 of the Constitution](#).

### 2.3.6 Sub Committees

Appointments to Sub-Committees are made by the 'parent' Committee, not the Council. Any appointments to Sub-Committees, may only be from membership of the 'parent' Committee.

### 2.3.7 Chairs and Vice-Chairs of Committees

Chairs and Vice-Chairs of Committees are appointed by those Committees. Chairs and Vice-Chairs of Sub-Committees are appointed by those Sub-Committees.

### 2.3.8 Substitute Members

As well as allocating seats on Committees, the Council will appoint substitute members to those Committees.

Subject to the listed exceptions, all Members of each political group not appointed to a particular Committee or Sub-Committee, shall be named as substitute Members for the Member or Members of that group who have been appointed to that Committee or Sub-Committee, subject to provision that substitute Members for Sub-Committees are restricted to Members of the 'parent' Committee (other than in respect of the Area Development Control Sub-Committees).

The exceptions are that:

- No member of the Executive may be appointed as a substitute Member in respect of the Overview and Scrutiny Committee;
- Substitutes on Committees subject to the political balance regulations may only be substituted for Members of the same political party except where a substitute is necessary for the Committee to operate effectively, and the political group does not have sufficient membership to appoint a substitute, or the substitute is not able to attend. In these circumstances the Monitoring Officer may, having regard to the rules of political proportionality, and in consultation with the Member who is unable to attend, invite any other Member who has been designated as a substitute for that Committee, to attend;
- For meetings of the Area Development Control Sub-Committees, the rules in relation to political balance apply. However, Members of the Development Control Committee, on making appointments to the Area Sub-Committees, may indicate that they don't wish to take up their allocation of seats in accordance with the political balance rules. If all members of the Development Control Committee indicate their acceptance, that Committee may agree to appoint to their Sub-Committees, those Members who represent a Ward or part of a Ward of the District which is situated within the area of the relevant Area Sub-Committee. Any Member of the Council, with the requisite training, is permitted to substitute for a Member on the Area Development Control Sub-Committee, in accordance with the wishes of the Member being substituted;
- No member may be appointed as a substitute member of the Development Control Committee or an Area Planning Sub-Committee who does not meet the requirements for training referred to in [Article 5 in Part 2 of the Constitution](#)
- [No member may be appointed as a substitute member of the Licensing Committee](#)

[or Sub-Committee who does not meet the requirements for training referred to in Article 5 in Part 2 of the Constitution;](#)

- [No member may be appointed as a substitute member of the Standards Sub-Committee who does not meet the requirements for training referred to in Article 5 in Part 2 of the Constitution;](#)
- [No Member of the Executive may be substituted.](#)

Any Member of a Committee or Sub-Committee who is unable to attend a meeting of that Committee or Sub-Committee may give notice to Democratic Services that for the duration of that meeting they will be substituted by another Member. They should do so, in advance of the commencement of the meeting, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The names of any substitute Members will be notified to the Committee or Sub-Committee by the Chair of the meeting under the item in the agenda dealing with apologies for absence. If the absence and appointment of substitute is notified to democratic services after the publication of the agenda, it is the responsibility of the Member to provide any relevant documents and information to the Member Substituting for them.

During a meeting substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not automatically exercise any special powers or duties exercisable by the Member they are replacing. For example, if they substitute for the Chair, they shall not automatically have the powers of the Chair, unless voted as Chair by that Committee.

Substitute Members may attend meetings in that capacity only:

- to take the place of the ordinary Member for whom they are the designated substitute Member;
- where the ordinary Member will be absent for the whole of the meeting; and
- after Democratic Services have been notified of the change.

## **2.4 Vacancies on Committees and Sub-Committees**

Any vacancies which arise on Committees and Sub-Committees, for any reason, between annual meetings of the Council shall be appointed to by the Monitoring Officer in accordance with the wishes of the political group to which the vacant seat is allocated. All Members of the Council will be asked to ratify and note the appointment at the next ordinary Council meeting.

## **RULE 3: Ordinary Meetings**

### **3.1 Date**

Ordinary meetings of the Council will take place in accordance with a programme approved by the Council and will be held at such places, on such dates and at such times as may be fixed by the Council, in accordance with Council Procedure Rule 6.

### **3.2 Business**

Ordinary meetings will:

- (i) Elect a person, who is not a Member of the Executive, to preside if the Chair and Vice-Chair are not present;

- (ii) Receive apologies for absence;
- (iii) Receive any declarations of interests from Members;
- (iv) Approve the minutes of the last meeting;
- (v) Deal with any business expressly required by statute to be carried out;
- (vi) Receive any announcements from the Chair, Leader, Members of the Executive, Head of Paid Service, Chief Financial Officer or Monitoring Officer;
- (vii) Receive any announcements from the Monitoring Officers as to changes to appointment of Members on Committees, for the Council to ratify and note;
- (viii) Receive any questions from members of the public in accordance with Council Procedure Rule 11;
- (ix) Receive any Member questions and responses in accordance with Council Procedure Rule 12;
- (x) Receive any Petitions and consider in accordance with the Council's Petition Scheme;
- (xi) Deal with any business remaining from the last Council meeting;
- (xii) Receive reports, and consider any recommendations from the Council's Committees and the Executive to the Council;
- (xiii) Receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xiv) Receive and consider reports from Officers;
- (xv) Consider motions of which notice has been given in accordance with Rule 13 of these procedures;
- (xvi) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee for debate; and
- (xvii) Consider any matters deemed urgent by the Chair, after having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

The order of business of a meeting of the Council may be varied by the Chair or by the meeting in accordance with Council Procedure Rule 8.

### **3.3 Council Budget Meeting**

These Council Procedure Rules are supplemented by the Budget Procedure Rules at part 5J of the constitution. Where any conflict arises between the two sets of procedural rules, the Budget Procedure Rules will prevail for the annual Budget setting meeting.

## **RULE 4: Extraordinary Meetings of Council**

### **4.1 Calling an Extraordinary Meeting**

Those listed below may require the Chief Executive to summons Members to Council meetings in addition to Ordinary meetings:

- the Council by resolution;
- the Chair of the Council;
- the Leader of the Council;
- the Head of Paid Service;

- the Monitoring Officer;
- the Chief Financial Officer; and

Any 5 members of the Council, if they have signed a requisition presented to the Chair who has refused or failed to call a meeting within 7 calendar days of presentation of the requisition. Any such requisition will be deemed to have been presented to the Chair if emailed to the Monitoring Officer at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk).

## 4.2 Business

Extraordinary Meetings will:

- i) Elect a Councillor, who is not a Member of the Executive, to preside if both the Chair and Vice-Chair are not present;
- ii) Receive any apologies for absence;
- iii) Receive any declarations of interests;
- iv) In accordance with Council Procedure Rule 11 receive any questions from the registered electors;
- v) Consider the single item of business specified in the summons to the meeting (a single item may be made up of more than one part provided that they all relate to a single subject);
- vi) Consider any business that the Chair deems to be urgent, having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

## RULE 5: Special Meetings of Council

A Special Meeting of the Council is one that is required by statute or by the Council and shall only consider a single substantive item of business. The meeting shall be convened for the specific statutory purpose which shall be contained in the summons. No other business may be transacted at that meeting.

### 5.1 Calling a Special Meeting

Those listed below may require the Chief Executive to summons Members to a Special Meeting of Council:

- The Council by resolution;
- The Chair; and
- The Monitoring Officer.

### 5.2 Business

Special Meetings will:

- i) Elect a Councillor, who is not a Member of the Executive, to preside if the Chair and Vice-Chair are not present;
- ii) Receive apologies for absence;
- iii) Receive any declarations of interests;
- iv) Receive questions from members of the public in accordance with Council Procedure Rule 11, relating to the specific single item of business on the agenda;



- and
- v) Consider the specific item of business for which the meeting has been convened.

## **RULE 6: Time and Location of Meetings**

An annual calendar of meetings will be agreed by Council and will detail the dates of all meetings.

### **6.1 Council**

Both the annual and ordinary meetings of Council will commence at 2pm and be held at the Council Chamber at Woodgreen, unless:

- The Council resolves otherwise; or
- For some practical reason this is not possible or appropriate, in which case the meeting will be held at another location, to be decided by the Chief Executive, after consulting the Chair and Leader of the Council.

If an emergency occurs, the Chief Executive may, after consulting with such of the Chair, the Leader of the Council and Leaders of the Political Groups as may conveniently be contacted, vary any arrangement agreed by the Council for the holding of Council meetings.

No meeting of the Council shall, except in an emergency, be held on a Friday evening, Saturday, Sunday, Bank Holiday or day on which the Council shall have granted a general holiday for its employees.

The time and location of Extraordinary and Special Council meetings will be determined by the Chief Executive, in consultation with the Chair and Vice Chair, and will be notified to all Member on the summons to the meeting.

### **6.2 Committees**

The timing of meetings will be agreed by the respective Council Committees and Sub-Committees at their first meeting of the civic year. Such Council Committee meetings will usually be held at Woodgreen.

The timing and location of Executive meetings will be determined by the Leader, in consultation with the Monitoring Officer, and will be notified on the summons to meetings.

The Monitoring Officer is authorised to cancel meetings and to reschedule meetings with reasons and in consultation with the Chief Executive and the relevant Chair of the Council, a Committee or Sub Committee, provided that the agenda for the meeting has not been published.

## **RULE 7: Notice of and Summons to Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules, by publishing the time and location of the meeting on the Council's website. Where the meeting is called by Members of the Council, the notice shall be signed by those Members and shall specify the purpose of the meeting.

At least five clear working days before the day of the meeting, the Chief Executive will send a summons or agenda, signed by or on behalf of him or her, to every Member of the Council, by electronic mail, by post or by leaving it at their usual place of residence. The summons or agenda will give the date, time and location of each meeting and specify the business to be transacted, and will be accompanied by relevant reports, or shall provide access to such reports electronically.

#### **RULE 8: Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair. If it is necessary to choose a Member of the Council (who cannot be a Member of the Executive) to preside in the absence of the Chair and the Vice-Chair, the Monitoring Officer or their representative will preside and call for a motion that a Member of the Council take the Chair. If there is any debate on the motion then that Officer shall have all the powers of the Chair for the purposes of that debate.

The ruling of the Chair, having taken advice from the Monitoring Officer or their representative, as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Where these rules apply to Committee and sub-Committee meetings, references to the Chair also include the Chair of Committees and sub-Committees.

The Chair of a Council or Committee meeting can ask the meeting to agree to a change in the order of business on an agenda, except for the first two items at an Annual Council meeting.

#### **RULE 9: Quorum**

The quorum of a meeting of the Council will be one quarter of the whole number of Members of the Council.

The quorum of any meeting of a Committee or sub-Committee shall be:

- not less than one quarter of the total membership of the Committee or sub-Committee; and
- subject to a minimum of three

If at any time during a meeting the number of members in attendance falls below the quorum, the person presiding will declare that there is not a quorum present, and the meeting will stand adjourned for 15 minutes. If, after 15 minutes, the person presiding declares that there is still no quorum present, then the meeting will be adjourned and any remaining business considered at the next meeting.

The consideration of all business which is on the agenda of a meeting brought to an end in this way, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary, Extraordinary or Special, insofar as is allowed by law.

#### **RULE 10: Duration of Meetings**

Where any meeting of the Council, a Committee or Sub-Committee, has lasted 3 hours, the person presiding will interrupt the meeting and any Member speaking shall stop speaking.

The person presiding shall, without discussion, take a vote on whether or not the Members of the meeting wish it to continue.

Unless a majority of members present vote for the meeting to continue, then the person presiding shall, without further discussion, take a vote on the item under discussion and then the meeting shall stand adjourned. The remaining business will be considered at a time and date fixed by the Chair of the Council or Committee at that time, or, if they do not fix a time and date, at the next meeting of the Council or Committee.

If the majority of Members present vote to continue the meeting, then a further vote on whether or not to continue the meeting will take place on an hourly basis thereafter.

This Council Procedure Rule does not apply to meetings dealing with matters arising under the Licensing Act 2003 and the Gambling Act 2005, Committee meetings dealing with staff appointments or staff appeals and Standards Sub-Committee meetings dealing with code of conduct determinations.

## **RULE 11: Questions and Engagement By the Public**

### **11.1 Questions on Notice by the Public**

A member of the public, who is a registered elector in the District, may ask questions of the Chair of Council, any Member of the Executive or the Chair of any Committee, on any matter in relation to which the Council has powers or duties or which affects the District.

A member of the public is limited to asking one such question at any meeting of the Council, other than Annual Council. No more than one question can be asked on behalf of any organisation or body at any Council meeting.

Notice that the question is to be asked, together with a written copy of the question, must be provided to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), or by post, to be received no later than noon on the seventh working day before the day of the meeting.

No questions from the public will be allowed where the requisite notice has not been given.

### **11.2 Grounds for refusal of a Public Question**

The Monitoring Officer may reject a question if, in their opinion, it:

- Does not relate to a matter for which the Council has responsibility or does not affect the District or his residents, communities or businesses;
- Is Defamatory, frivolous, vexatious or offensive;
- It refers to legal proceedings taken or anticipated by or against the Council;
- It is substantially the same as a question which has been put to a meeting of Council in the previous 6 months;
- It requires the disclosure of confidential or exempt information; or
- It would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998 as amended.

### **11.3 Asking the Question and Responding**

Copies of all questions, save for those that have been rejected, will be included in the briefing document circulated to all Members of the Council, and made available to the public attending the meetings via the Council's website, at least one clear working day prior to the meeting.

The member of the public may attend in person to ask their question, as written, or in their absence, or where they prefer, the question may be read out by the Chair of the Council, or the Monitoring Officer or their representative.

Questions will be taken in the order in which they were received by Democratic Services, except that the Chair may group similar questions together.

The response will take the form of:

- A direct verbal answer;
- Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- Where the reply cannot conveniently be given verbally, a written response within 3 clear working days, to be circulated to all Members of the Council.

The response will be recorded and incorporated into the minutes of the meeting.

#### **11.4 Supplementary Questions**

The member of the public may ask a supplementary question, which must arise directly from the question itself or the response provided to the question. The Member may provide a verbal response or provide a written response to the supplementary question within 3 clear working days, to also be circulated to all Members of the Council.

No discussion will take place in respect of any question or supplementary question.

#### **11.5 Time Limits**

There is no time limit for an individual question, but there shall be a maximum total of 15 minutes allowed for questions from members of the public. If the 15 minutes expires during a question or supplementary question, the Chair may allow the question to be heard and responded to, and any supplementary question also to be put and responded to. Where the 15 minutes is not used for this purpose, any remaining time may be used for Member questions in accordance with Rule 12.1.4.

Where a question cannot be responded to during public question time due to a lack of time, it will be dealt with by way of a written response within 3 clear working days, to also be circulated to all Members.

#### **11.6 Referral to the Executive or a Committee**

In addition, any Member of the Council may move that a matter raised by a question, be referred to either the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.

This provision shall apply only at Council meetings.

## 11.7 Petitions

Petitions, other than statutory petitions, shall be managed in accordance with the Council's Petition Scheme set out in Part 6E of the Constitution.

### **RULE 12: Questions by Members**

#### **12.1 Questions on Notice by Members**

##### 12.1.1 Notice and Scope

Provided that the Member has given written notice to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 12 noon on the seventh working day before the date of the meeting, at a Council meeting, a Member of the Council may ask:

- the Chair;
- a Member of the Executive;
- the Chair of any Committee;
- the Council's representative on any outside body

a question on any matter in relation to which the Council has powers or duties or which affects the District, (subject to Rule 12.2 below).

##### 12.1.2 Urgency

Any Member of the Council may ask a question of the Chair or Leader of the Council where it relates to an urgent matter, which could not have been foreseen 7 working days before the meeting and cannot reasonably be left in abeyance until the next scheduled Council meeting, provided they have the consent of the Chair of the Council, and that notice and a written copy of the question have been provided to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 10.00am of the day of the meeting.

##### 12.1.3 Scope

The Monitoring Officer may reject any such question if it relates to:

- A decision of the Development Control Committee or its Sub-Committees on a specific Planning application;
- A decision of the Standards Sub-Committee on a Standards determination;
- A decision of a Licensing Committee on a specific application, review or similar matter;
- A decision on a staffing appointment or appeal relating to an Individual;
- A matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period.

##### 12.1.4 Asking and Responding to the Question

Every question put and answered shall be without discussion.

The question will be included in writing in a briefing document to all Members, published on the Council website, and circulated at least one clear working day prior to the Council meeting.

The person to whom a written question has been put may refer it to another Member for written response.

The response will be in writing. The written response will also be included in the briefing document and circulated to all Members, and published on the Council's website, at least one clear working day prior to the day of the meeting.

Where the desired information is in a publication of the Council or other published work, the written response may simply be a reference to that publication.

#### 12.1.5 Supplementary Question

A Member submitting a question under this Council Procedure Rule may ask one supplementary question, without notice, of the Member to whom the first question was put, or of the Member who provided the written response. The supplementary question must arise directly out of the original question or the response to it. The Member may provide a verbal response or provide a written response to the supplementary question within 3 clear working days. Where a written response is provided, it should be circulated to all Members of the Council.

#### 12.1.6 Referral to the Executive or a Committee

In addition, any Member may move that a matter raised by a question be referred to the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.

#### 12.1.7 Time Limits

Questions will be taken in the order in which notice was given, save that the Chair may group similar questions together.

There is no time limit for each individual question but 15 minutes shall be allowed in total for Member questions. If the 15 minutes expires during a question or supplementary question, the Chair may allow the question to be heard and responded to, and any supplementary question also to be put and responded to. 15 minutes is also allowed for public questions, and if this has not been used, the remainder of this time may be added to the 15 minutes allowed for Member Questions.

Where a supplementary question cannot be responded to during member question time due to a lack of time, it will be dealt with by way of a written response to be circulated to all Members within 3 clear working days.

#### 12.1.8 Record

Questions asked on notice at Council under this procedure rule will be recorded in the minutes, and published on the Council's website, as will any response provided.

This provision shall apply only at Council meetings.

## 12.2 Questions by Members Without Notice

A Member may ask a question, at a meeting of Council, without notice as follows:

- (i) A Member of the Council may ask the Leader or the Chair of a Committee any question on an item on the agenda when that item is being considered. Such questions should be raised prior to the item being moved or seconded;
- (ii) A Member of the Council may ask the Chair, Leader, Member of the Executive or the Head of Paid Service, Chief Financial Officer or Monitoring Officer, a question arising from an announcement made at the meeting;

## RULE 13: Motions on Notice

### 13.1 Notice

Except for motions which can be moved without notice under Council Procedure Rule 14, written notice of every motion, signed by the Member or Members of the Council giving notice, must be delivered to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), no later than noon on the seventh working day before the date of the meeting. An electronic signature will suffice. The Member or Members should ensure they obtain an acknowledgement of its receipt.

Motions will be dated and numbered and entered sequentially in a book which shall be open to public inspection.

### 13.2 Motion set out on agenda

Accepted motions of which notice has been given will be listed on the agenda, unless the Member or Members giving notice state, in writing, via email to the Monitoring Officer at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by 10am on the date of the meeting, that they propose to move it to a later meeting or withdraw it. All accepted motions shall be published on the Council's website.

Motions will be taken in the order in which they were received, subject to the requirement to rotate motions from each political group. Any motion from the largest political group will be taken first, followed by each other political group in order of size, followed by any motion from a member not part of a political group.

The maximum number of accepted notices to be presented at a Council meeting shall be as follows: 2 each from the 3 largest political groups; 1 each from any other political group; and 1 from any Member not belonging to a political group.

### 13.3 Scope

Motions must be about matters for which the Council has powers or duties or which affect the District.

Any motion must be limited to 500 words.

A motion may be rejected by the Monitoring Officer, if in their opinion, the motion:

- Is not relevant either to some matter in relation to which the Council has powers or duties or it does not affect the District; or
- Is defamatory, frivolous, unlawful, vexatious or offensive; or
- Refers to legal proceedings taken or anticipated by or against the Council; or
- Is substantially the same as a motion which has been received and accepted in the previous 6 months; or
- Requires to disclosure of confidential or exempt information; or
- Is improper, out of order, or not relevant.

Where a motion is rejected by the Monitoring Officer, they shall return the Motion to the Member of the Council who gave notice of it, stating that it will not be inserted on the agenda, and providing reasons for that decision.

Where the Council is in the process of consulting with the public on a proposal, or responding to a formal consultation process, no notice of motion expressing support or objecting to the proposals shall be accepted.

#### **13.4 Time limit**

There will be a total maximum time period for Motions on Notice of 60 minutes but no time limit for dealing with each motion.

#### **13.5 Motion not proposed at Meeting**

If a motion set out in the agenda is not proposed either by a Member who gave notice of it or by some other Member acting on their behalf it shall, unless postponed by consent, shown by a majority vote of those present, of the Council, be treated as withdrawn and shall not be further moved without fresh notice. In accordance with Council procedure Rule 13.3 above this cannot be until a period of 6 months has expired.

#### **13.6 Action on the Motion**

If the subject matter of any motion of which notice has been given falls within the remit of any Committee of the Council, or of the Executive, when it has been proposed and seconded it shall stand referred without discussion to that Committee or the Executive.

If the matter requires a decision of the Executive, the decision of the Executive shall be available to all Members via the minutes of the Executive meeting. If the matter stands referred to a Committee, the Council may decide whether it shall be decided by that Committee or whether action is to be taken by the Council on report of that Committee to a future Council meeting.

Notwithstanding the above, if the subject matter is to be determined by the Council and is not an Executive matter, the Chair may, if they consider it convenient and conducive to the conduct of business, allow it to be dealt with at the Council meeting at which it is brought forward.

#### **13.7 Attendance at Meeting considering Motion**

If a Motion is referred to a Committee of which the proposer, or the seconder in the absence of the proposer, is not a Member, or to the Executive, the proposer shall be



entitled to attend that meeting and to explain the Motion. The Member may answer questions from the Executive or Committee, for the purposes of clarification, prior to any debate and may sit with the Committee or Executive for the item in question, subject to the access to information procedure rules. The Member may not partake in the debate, nor vote upon the item.

#### **RULE 14: Motions without Notice**

The following motions, and amendments to motions, may be moved without notice:

- to appoint a Chair of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual, including referring any matter for consideration by the Executive or a Committee;
- to appoint a Committee or Member arising from an item on the summons for the meeting;
- to receive reports or adopt the recommendations of the Executive, Committees or Officers and any resolutions arising from them;
- to withdraw a motion;
- to extend the time limit for speeches;
- to amend a motion;
- to postpone consideration of a motion;
- to proceed to the next business;
- to take an immediate vote on a motion;
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond three hours in duration;
- to suspend a particular Council procedure rule;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a member named under Rule 23 or to exclude them from the meeting under that Rule; and
- to give the consent of the Council where its consent is required by this Constitution;
- motions relating to a vote by way of ballot;
- motions relating to announcements from the Chair, Leader, Members of the Executive, Head of Paid Service, Chief Financial Officer or Monitoring Officer;
- To carry out a statutory duty of the Council which, by reason of special circumstances, the Chair is of the opinion should be considered at the meeting as a matter of urgency;
- To invite a Member to withdraw in accordance with the Members' Code of Conduct.

#### **RULE 15: Rules of Debate for Council**

Rules of debate for the consideration and determination of the annual budget, reference is made to the Council's Budget Procedure Rules in Part 5J of the Constitution.

### **15.1 Management of the debate**

The Chair shall have the control of any debate and will use discretion to ensure the effective, efficient, fair and orderly conduct of the business.

The Chair will normally follow the rules set out in this Council Procedure Rule but the Chair's interpretation, application or waiver of these rules of debate will be final.

### **15.2 Speeches and Questions**

Before moving the motion, the proposer will take any questions on the motion from Members. Such questions must directly relate to the motion being proposed and are restricted to questions directly relating to clarity of what is proposed.

No speeches or debate may be made after the mover has moved a proposal or amendment until the motion or amendment has been seconded.

Once a proposal has been moved and seconded, no questions nor answers are permitted, other than in respect of an amendment to the motion prior to such an amendment being moved. Once proposed and seconded, only speeches or debate are permitted.

### **15.3 Right to require Motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed or put to the meeting.

### **15.4 Secunder's Speech**

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

### **15.5 Content and Length of Speeches**

Speeches must be directed to the motion under consideration or to a personal explanation or point of order.

No speech by the proposer of a motion (but not an amendment) shall exceed 10 minutes, when proposing the motion and when exercising the right of reply at the close of debate on a motion. All other speeches in a debate shall not exceed 5 minutes. This rule is subject to the consent of the meeting to extend a speech.

### **15.6 When a Member may speak again**

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

- to speak once on an amendment moved by another Member;
- to move a further amendment if the motion has been amended since they last spoke;
- if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- in exercise of a right of reply;
- on a point of order; and

- by way of personal explanation.

### **15.7 Amendments to Motions**

An amendment to a motion must be relevant to the motion and will either be:

- to refer the matter to an appropriate body or individual, including the Executive or a Committee, for consideration or reconsideration;
- to give guidance to the Executive or Committee on a subject determined under delegated powers;
- to amend the wording of the motion, provided that the effect is not to negate the motion or introduce a new proposal into the debate.

If necessary, the Chair, or an Officer supporting them, will read out the amended motion before the amendment is put.

If the Chair is of the opinion that any amendment proposed is of a defamatory, frivolous, vexatious or offensive nature, they may immediately put to the vote a motion that the amendment not be entertained or further permitted. If such a motion is seconded, a vote shall be taken without debate. If carried, the amendment will not be permitted and shall be considered disposed of.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, but the Chair may permit two or more amendments to be discussed together (but not voted on) if in their opinion this would facilitate the conduct of the business.

If an amendment is not carried, other amendments to the original motion may be moved, provided that no such amendment may have a similar effect to one previously determined by the meeting.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chair or an Officer supporting them, will read out the amended motion before accepting any further amendments.

After all amendments have been considered and determined there shall be an opportunity for further debate on the original motion, as amended or otherwise, as the case may be, prior to the taking of a vote.

### **15.8 Alteration of Motion**

With the consent of the seconder, and the Council, signified without discussion, a Member may alter: -

- a motion of which they have given notice; or
- a motion which they have moved without notice; or
- an amendment to a motion they have moved.

Only alterations which could be made as an amendment to the motion may be made.

### **15.9 Withdrawal of Motion**

A Member may withdraw a motion of which they have given notice, by simply not proposing it at the meeting.

A Member may withdraw a motion, or an amendment to a motion, which they have moved, with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the matter after the mover has asked permission to withdraw it unless permission is refused.

### **15.10 Right of Reply**

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion before a vote is taken.

A Member exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Chair's ruling on this shall be final and not open to discussion.

### **15.11 Chair may sum up debate**

The Chair may, if they think fit, sum up the debate before putting a motion or amendment to the vote and if such debate involves a question of a legal, administrative or technical nature, they may request the appropriate statutory Officer, or their representative, to draw the attention of the meeting to any relevant factors.

### **15.12 Motions which may be moved during debate**

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

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to postpone consideration of a motion;
- (iv) to proceed to the next business;
- (v) to take an immediate vote on the motion;
- (vi) to adjourn a debate;
- (vii) to adjourn a meeting;
- (viii) that the meeting continue beyond three hours in duration;
- (ix) to exclude the public in accordance with the Access to Information Rules; and
- (x) to not hear further a Member named under Rule 23 or to exclude them from the meeting under that Rule.

### 15.13 Closure Motions

A Member may move, without comment, the following motions at the end of a speech of another Member:

- (i) to proceed to the next business;
- (ii) to take an immediate vote on a motion;
- (iii) to adjourn the debate;
- (iv) to adjourn the meeting;
- (v) to exclude the public from the meeting in accordance with Access to Information Rules; or
- (vi) that a Member be not heard further in accordance with Council Procedure Rule 23.

If a motion to proceed to next business is seconded and the Chair considers the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then move, without further debate, to a vote on the procedural motion to proceed to next item of business. If that motion is carried then the substantive motion before Council is dropped and no decision has been taken on it and none will be recorded.

If a motion to take an immediate vote is put and seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion that the vote now be taken, to the vote, without debate. If the procedural motion is carried, they will give the mover of the original motion a right of reply and then move to the vote on the substantive motion.

If a motion to adjourn the debate or to adjourn the meeting, is proposed and seconded, and the Chair considers the item has not been sufficiently discussed and cannot be reasonably discussed at that meeting, they shall put the procedural motion to the vote without debate and without giving the mover of the original motion, or amendment, a right of reply. On resuming an adjourned debate, the Member who moved the adjournment is entitled to speak first; the proposer of the substantive motion, or amendment, will have their right of reply in the usual way at the end of the resumed debate. The motion may specify the location, date and time at which the adjourned debate or meeting shall take place, but if it does not, such decisions shall be determined following the meeting by the Chair in consultation with the Monitoring Officer. Members shall be advised in the usual way by notice of summons to the adjourned meeting.

If a motion to exclude the public is moved and seconded, which is not on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer, or their representative, as to whether members of the public may lawfully be excluded. If they may, the Chair shall put the procedural motion to exclude the public to the vote, without debate and without allowing a right of reply. If the procedural motion is carried, the Chair may, at their discretion, either immediately require the public to leave the meeting room or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

If a motion that a named Member be not heard further, is proposed and seconded, the Chair shall put the motion to the vote without debate. If it is carried, the named Member shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

#### **15.14 Points of Order**

A Member may raise a point of order at any time by indicating to the Chair. The Chair will hear them immediately, subject to Council Procedure Rule 23.4.

A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member shall be required by the Chair to indicate the Council Procedure Rule or law they consider has been breached and the way in which they consider it has been breached before they are heard.

The ruling of the Chair on the matter will be final and is not open to discussion.

#### **15.15 Personal Explanation**

A Member may make a personal explanation at any time, by indicating to the Chair. The Chair shall hear them immediately, subject to Council Procedure Rules 15.14 and 23.4.

A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final and is not open to discussion.

#### **15.16 Recommendations to Council from the Executive and Committees**

Any recommendations from, or reports by, the Executive or a Committee, to Council, shall be taken in date order, unless otherwise required. Each recommendation shall be moved by the Leader or relevant Executive Member if Executive, or Committee Chair, if a Committee, or their representative. After being moved and seconded, the matter shall be open to debate and the rules of debate above shall apply.

### **RULE 16: Motion to Rescind or Amend a Previous Decision**

#### **16.1 Motions on Notice to rescind a previous decision or similar to one previously rejected**

A motion on notice to rescind a decision made at a meeting of Council within the past six months, or a motion on notice similar to one previously rejected in that period cannot be moved unless the notice of motion is signed by at least 17 Members of the Council or advice has been given by one of the Council's statutory officers that the matter should be reconsidered.

#### **16.2 Motions arising during debate to rescind a previous decision or similar to one previously rejected**

If a motion or amendment is raised during a debate at a meeting of Council, to rescind a decision made at Council within 6 months, or similar to one rejected within the previous 6 months, the Chair shall reject it.

#### **16.3 Exceptions**

- Council Procedure Rules 16.1 and 16.2 do not apply;
- To motions moved in pursuance of a recommendation of the Executive or a

Committee; or

- To motions to carry out any statutory duty of the Council which, in the opinion of the Chair, is of an urgent nature; or
- Where a decision has been made by another body since the Council's decision, which significantly affects the decision and necessitates reconsideration of the matter.

## **RULE 17: Voting**

### **17.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

Unless a ballot or recorded vote is demanded or required, then the Chair shall take the vote by show of hands.

The Chair shall ascertain the number of Members voting for, against or abstaining on any question, shall announce those numbers to the meeting, and declare the result and whether the motion is carried or not. The Chair's declaration as to the result will be final.

### **17.2 Chair's Casting Vote**

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

If there are equal number of votes for and against and the Chair chooses not to exercise their casting vote, then the matter to be determined shall fall.

### **17.3 Ballot**

A ballot is a vote whereby Members signify their vote by writing on a piece of paper issued to them individually for that purpose and the vote of individual Members is not identified as being by that Member. The vote will take place by ballot if a majority of Members present at the meeting demands it, and there has been no valid request for a recorded vote. Such demand to be made by motion without notice, moved, seconded and voted on without debate.

The Chair shall announce the numerical result of the ballot immediately the result is known.

### **17.4 Recording of Voting at Budget Decision Meeting**

At a budget decision meeting of the authority where making a calculation under the relevant sections of the Local Government Finance Act 1992 or issuing the precept as the case may be was included as an item of business on the agenda for that meeting, the minutes of the meeting shall record in respect of each member present whether they voted for a proposition, or against a proposition, or abstained from voting.

The references above to voting are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

Further reference should be made to the Budget Procedure Rules at Part 5J of this Constitution.

### **17.5 Matters for Noting**

Where a meeting of Council is asked to simply note a matter, rather than determine it, or make any substantive decision, the Chair will take the vote by the affirmation of the meeting, provided there is no dissent.

### **17.6 Recorded Vote**

A recorded vote is a vote by way of roll call and shall be recorded in the minutes of the meeting to show how each Member present and voting cast their vote. The name of any Member present and abstaining from voting shall also be recorded.

Any Member can request, before the vote is taken, that their individual vote is recorded.

Any Political Group Leader may request, before a vote is taken, that the votes of everyone within that political group are recorded.

If 7 members request a recorded vote, before the vote is taken, then the vote is to be recorded.

### **17.7 Voting on Appointments**

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

## **RULE 18: Council Officers**

### **18.1 Officers Speaking at Council**

Other than in relation to Council Procedure Rule 18.2, no Officer other than:

- The Head of Paid Service;
- The Monitoring Officer, or their representative at a meeting;
- The Chief Financial Officer, or their representative at a meeting.

Shall be called upon to speak at a Council meeting without the consent of the Head of Paid Service. However, where the consent of the Head of Paid Service is given, Officers in addition to those listed above, may be called upon to contribute by way of advice, guidance or presentations on any matter under consideration at the meeting.

### **18.2 Officer Reports to Council**

Where any matter is subject to a report direct to Council, from an Officer, the Officer may introduce the report, answer any questions for the purpose of clarification and provide advice during the debate. The Officer may decline to answer questions which they perceive to be political in nature.

### **18.3 Matters Affecting Officers**



If any question arises at a meeting of Council, the Executive or a Committee at which the public are in attendance as to the appointment, promotion, dismissal, remuneration, pension matters, conditions of service or conduct of any officer of the Council, such question shall not be the subject of discussion until the Council, the Executive or the Committee, as the case may be, has considered excluding the public under the Access to Information Procedure Rules and section 100A of the Local Government Act 1972.

#### **RULE 19: Representatives on Outside Bodies**

Members of the Council who are appointed to outside bodies as representatives of that Council are encouraged to keep other Members of the Council informed about such meetings they attend on an informal basis.

Where a Member who is a representative on an outside body is of the view that a matter to be considered by that body is of such importance as to require that they are informed as to the Council's opinion on that item, the Member shall be entitled to request the Monitoring Officer to place the item on the agenda of the appropriate Council meeting, the Executive or a Committee. The Member may address the Council, Executive or Committee as in Council Procedure Rule 13.7.

#### **RULE 20: Confidentiality of Papers**

Save as provided by the Local Government Act 1972, and the Access to Information Procedure Rules, all summonses, agendas, reports and other documents shall be treated as confidential unless and until either they become public in the ordinary course of the Council publishing its business, or the consent of both the Chair and the Monitoring Officer are obtained.

#### **RULE 21: Minutes**

##### **21.1 Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record, provided that the previous meeting took place more than 10 clear working days prior to the day of the meeting. The only part of the minutes that can be discussed is their accuracy. Any questions as to the accuracy of the minutes as a record shall be raised by motion.

Where there is no ordinary meeting of a Committee or Sub-Committee expected to take place within a period of 6 months after a meeting for which draft minutes have been prepared:

- In respect of a Committee, Council may agree the accuracy of the minutes;
- In respect of a Sub-Committee, the 'parent' Committee may agree the accuracy of the minutes;
- In respect of Committees or Sub-Committees which have ceased to meet and their functions have been subsumed in another Committee or Sub-Committee, the new Committee or Sub-Committee may agree the accuracy of the minutes;

##### **21.2 Minutes at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an

Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph ie. an Ordinary meeting) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **21.3 Form of Minutes**

Minutes of Council and non-Executive meetings will contain a summary of any debate, setting out the main points that were considered, all motions and amendments in the exact form and order the Chair put them, and the wording of the final decision. Minutes are not intended to be a verbatim record of events.

Minutes of Executive meetings shall contain a summary of the reasons for the decision, the decision and the date for call-in.

### **RULE 22: Status of Draft Records of Decisions and Minutes**

Until such time as the Council, the Executive or a Committee whose record is set out in the draft record or minute confirm that record or minute as an accurate record of their decision, they are a working draft only.

Subject to Council Procedure Rule 21.1, only the body whose record is set out in the draft record or minute may alter or amend the record or minute.

If a Member wishes to propose a recommendation to Council that differs from that set out in the draft record or minute then it must be done by way of an amendment to the motion before Council.

### **RULE 23: Attendance and Conduct of Members**

#### **23.1 Record of Attendance**

All Members present during the whole, or part, of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Any omission may be remedied at the discretion of the Monitoring Officer, or by the amendment of draft minutes of a meeting prior to confirmation, at the next or subsequent meeting in accordance with Council Procedure Rule 21.

#### **23.2 Attendance for Part of a Meeting**

Any Member who is not present for the entirety of an agenda item, and has not heard the whole of the presentation and/or debate, is precluded from participating in the vote of that matter.

#### **23.3 Speaking at Council**

A Member may indicate their desire to speak at full Council, by raising their hand. When called to speak by the Chair of the meeting, they should stand, where comfortable to do so, and should address the meeting through the Chair. If more than one member indicates a desire to speak, the Chair will attempt to take speakers in the order in which they indicated. Other Members must remain silent whilst a Member is speaking. Other Members must remain seated whilst a Member is speaking, unless they wish to make a point of order or a personal explanation.

#### **23.4 Chair standing**

If the Chair stands during a debate, any Member speaking at the time must stop speaking and be seated. The meeting must be silent, whilst the Chair speaks.

#### **23.5 Member not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may direct the Member to stop speaking. If following such a direction to stop speaking, the Member continues to speak, the Chair may move that the Member be not heard further on the agenda item. If seconded, the Chair shall put the motion to the vote without discussion. If passed, the Member shall not be permitted to speak on the same matter again during that meeting.

#### **23.6 Member to leave the meeting**

If a Member persistently disregards the ruling of the Chair by continued irrelevance or repetitions, or by behaving improperly or offensively, or deliberately obstructs business, the Chair may request the Member to leave for the remainder of the meeting. If following a request to leave the meeting, the Member fails to leave, the Chair may move that the named Member leaves the meeting, or that the meeting is adjourned for a specified period. If seconded, the Chair shall put the motion to the vote without discussion.

#### **23.7 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may, at their discretion, adjourn the meeting for as long as they think necessary.

#### **23.8 Electronic Devices**

Members may at any meeting use any device for the recording of the meeting, the sending or receiving of communications in relation to the meeting or the publication of the contents of the meeting, provided that:

- Such device remains silent;
- The Member does not record or communicate any matter or information relating to the contents of any meeting or part of a meeting which is in relation to information which is confidential or which the Members have agreed to exclude the public in accordance with the Access to Information Procedure Rules.
- The use of the device does not disrupt the meeting nor distract members of the public, or any Member from the content of the meeting;
- No oral commentary is recorded;
- The Member complies with statutory provisions relating to data protection and other legislation relating to the recording, use of and retention of personal data.
- If the Member's use of a device does not comply with this Council Procedure Rule, then the Chair of the meeting may take action in accordance with Council Procedure Rule 24.6.
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#### **23.9 Vacation of office by failure to attend meetings**

If a Member fails for a period of 6 months from the date of their last attendance, to attend a meeting of the authority, they shall, unless the failure was due to a reason approved by the authority before the expiry of that six month period, cease to be a Member of the Council.

Further advice should be sought, in a timely manner, from the Monitoring Officer as to what would constitute attendance at a relevant meeting to prevent section 85 of the Local Government Act 1972 having the effect of vacating the Member from their office.

## **RULE 24: Attendance and Conduct of the Public**

### **24.1 Exclusion of the Public**

Members of the public and press may only be excluded from a meeting of the Council either in accordance with the Access to Information Rules in this Constitution or this Council Procedure Rule. .

### **24.2 Removal of member of the public**

If a member of the public interrupts proceedings, causes a disturbance or behaves improperly, or offensively, or by deliberately obstructing business, the Chair will warn the person concerned. If they continue their conduct after having been warned, the Chair may direct that they leave the meeting room. If necessary or appropriate, the Chair may adjourn the meeting for a short period to enable the person to leave.

### **24.3 General disturbance**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may direct that the part of the meeting room be cleared. If necessary, or appropriate, the Chair may adjourn the meeting to enable the area to be cleared.

## **RULE 25: Delegations**

The Council may delegate non-Executive matters from time to time to Committees as it sees fit or as legislation prescribes. The Leader may delegate Executive matters from time to time to the Executive.

Both the Council and the Leader may delegate matters from time to time to Officers as it sees fit or as legislation prescribes, in addition to those delegated under the Scheme of Officer delegations.

When delegating to the Executive, a Committee or an Officer, the Council may give guidance as to the manner in which the matter should be dealt with, provided that such guidance does not have the effect of causing Council to breach the rules of natural justice, prejudicing the determination by the delegatee required to be judged on its own merits, or of fettering the discretion of the delegatee.

No individual Member, Officer or group of Members or Officers, or both, shall be entitled to exercise any power or function of the Council save as delegated to them by the Council, the Executive, a Committee or another Officer exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

Whilst the Chair of a Committee and Executive Members can expect to be consulted on matters affecting their areas of responsibility, they shall not have power to act on behalf or, or bind, the Council, unless the Council or the Leader has given them specific delegated powers to do so.

## **RULE 26: Attendance by Members at Meetings of which they are not a Member**

### **26.1 Attendance by the mover of a motion**

A Member of the Council who has moved a motion which has been referred to the Executive or a Committee shall be given notice by the Monitoring Officer of the meeting at which it is proposed that the motion be considered. The Member shall have the right to attend the Meeting whilst the motion is being considered, to explain the motion and answer questions.

### **26.2 Attendance by Representative on Outside Body**

Where a Member has requested the Monitoring Officer to place an item on the agenda in accordance with Council Procedure Rule 19, they shall have the right to attend that meeting whilst that item is under consideration.

### **26.3 Attendance of Members at Meetings**

Any Member of the Council may attend, in the public gallery, as an observer, any Committee or Sub-Committee of which they are not a Member. A Member observing may remain in the Meeting where the public are excluded, subject to the provisions of the Access to Information Procedure Rules, provided that they have a need to know about the matter under consideration, and that they do not have a relevant interest in the matter that would preclude their attendance. It is assumed that every Member will have a need to know about the matter under consideration, although this presumption is rebuttable and advice should be taken from the Monitoring Officer.

A Member of the Council who is not a Member of the Executive or a Committee, and has a relevant interest in any item under consideration at a particular meeting, that would prevent them from participating if they were a Member of the Executive or that Committee, is not entitled to be present in any part of the room where the meeting is taking place during the discussion of that item, unless a dispensation has been granted by the Monitoring Officer.

No Member is entitled to attend any of the Meetings below unless they are appointed as a Member of that Committee or are substituting for such a Member. Council Procedure Rule 26.3 therefore does not apply when:

- The Standards Sub-Committee goes into closed session to determine a Member conduct complaint;
- The Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
- Any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedure, or any other employment policy;
- Any Committee considering the appointment of a Council Officer.

## **26.4 Speaking by Members at meetings**

Subject to the provisions below, an observer may, at the discretion of the Chair be invited to speak on an item under consideration at that meeting. The Member must have, prior to the commencement of the meeting, notified the Chair of their desire to address the meeting. The Chair shall have total discretion as to whether or not to invite such a Member to address the meeting.

However, a Member who is not a Member of the Development Control Committee may not address that Committee in respect of any planning application, unless a similar right within the Constitution is granted to the applicant, any objector and any supporter.

A Member who is not sitting as a Member of the Licensing Committee or the Licensing Sub-Committee may not address that Committee or Sub-Committee unless they have a right to speak under relevant statutory regulations.

A Member who is not sitting as a Member of the Standards Sub-Committee may not address the Sub-Committee when hearing a code of conduct complainant, unless they are representing or acting as witness for either the Monitoring Officer, Investigating Officer or the Subject Member.

## **26.5 Leader of the Council**

The Leader of the Council, or Deputy Leader in their absence, may attend any meeting of a Committee and speak on any item under consideration as of right, unless they have a relevant interest in the matter that would preclude them from being present.

However Council Procedure Rule 26.5 does not apply to meetings of:

- The Standards Sub-Committee goes into closed session to determine a Member conduct complaint;
- The Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
- Any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedure, or any other employment policy;
- Any Committee considering the appointment of a Council Officer.

## **26.6 Voting**

A Member of the Council attending a meeting of the Executive or a Committee on which they have not been appointed to serve, and are not acting as a substitute Member is not entitled to vote on any item under consideration.

### **RULE 27: No Confidence in the Chair of a Committee**

At any meeting of a Committee, a Member of that Committee may move that 'the Meeting has no confidence in the Chair'. If seconded, the motion shall, after debate, be put and, if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the meeting shall be chaired by the Vice-Chair or, in their absence, by a Member elected for that purpose by the Meeting.

During the consideration of such a motion the Chair shall cease to be the Chair of the Committee and shall be an ordinary member of the Committee, and as such, the Chair's casting vote would not apply. The Monitoring Officer, or their representative, will act as Chair of the Committee during consideration of the motion.

Following a successful vote of no confidence in the Chair, they shall not officiate at any subsequent meeting of the Committee prior to the next meeting of the Council. At that meeting, the Council shall consider whether or not to confirm the vote of no confidence. If by a simple majority they decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and a new Chair shall be elected by the Council. If the Council does not confirm the vote by a simple majority, the Member remains as the Chair of the Committee.

## **RULE 28: The Leader of the Council**

### **28.1 Appointment of the Leader**

The Council shall elect a Leader at each Annual Council Meeting where the term of office of the Leader has come to an end due to the fact that their term of office as a Councillor has ended.

Members present at the Annual Council Meeting shall nominate one or more persons to be Leader, from among the Members. Any nomination which is not seconded, shall not be considered further.

Where there is only one Member nominated and seconded, then the Chair shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Leader.

Where there are 2 Members nominated and seconded then, following the opportunity for debate, the Chair shall call for a vote and the Member who received the largest number of votes shall be elected as Leader.

Where there are 3 or more candidates seeking appointment to a single position, there shall be a vote for each candidate; and

If one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed;

If no candidate received more than half of all the votes cast then the candidate with the least number of votes will be eliminated and a new vote taken. This process will continue until there is a majority of votes for one person.

The motion shall be in accordance with Council Procedure Rule 13 and the voting shall be in accordance with Council Procedure Rule 17.

### **28.2 Removal of the Leader**

If a Member wishes at a Council meeting to move a motion of no confidence in the Leader of the Council, the Member must give not less than 10 clear working days' notice to the Monitoring Officer via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The motion must be signed by the mover and the seconder.

The Monitoring Officer shall place the motion on the agenda for the next meeting of Council, provided that such meeting is not a Special Meeting. The motion before the Council shall be considered after the receipt of any declarations of interest, approval of minutes of the last meeting and questions and statements by the public.

The motion shall be in accordance with Council Procedure Rule 13 and the voting shall be in accordance with Council Procedure Rule 17.

### **28.3 Consequence of a Motion of No Confidence**

Where a motion of no confidence is carried, the Leader shall cease to be the Leader of the Council with immediate effect. The Council shall proceed to elect a new Leader at that meeting or the next meeting of the Council, provided it is not a special meeting.

### **28.4 Term of Office**

The Leader shall hold the office of Leader in accordance with Part 2D of the Constitution (Article 4). Should the Leader resign from their appointment, an Extraordinary Meeting will be called to deal with the appointment of a new Leader in accordance with this Council procedure Rule. The Deputy Leader will assume the role of Leader until such appointment is made.

## **RULE 29: Chair of the Council**

### **29.1 Election**

The Council shall elect a Chair at each Annual Council Meeting. The existing Chair shall take the Chair for the item on the agenda, unless he is conflicted, when the Vice Chair will take the Chair for the single item of business. If both the Chair and Vice Chair are conflicted, the Monitoring Officer, or their representative, will take the Chair for the election of the Chair.

Members present at that Annual Meeting shall propose one or more persons to be Chair from among the Members. Any proposal which is not seconded shall not be considered further.

Where there is only one Member proposed and seconded, the Chair shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Chair.

Where there are 2 Members proposed and seconded, then a debate on the proposals will follow, then the Chair shall call for a vote and the Member who received the largest number of vote shall be elected as Chair.

Where there are 3 or more Members proposed and seconded, following a debate on the proposals, the Chair shall call for a vote for each Member proposed and:

If one proposed Member receives more than half of all the votes cast in the election, that Member is elected as Chair;



If no Member received more than half of all the votes cast then the Member with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person, who shall be elected as Chair.

Voting will take place in accordance with Council Procedure Rule 17.

## **29.2 Removal**

If a Member wishes at a Meeting of Council to move a motion of no confidence in the Chair of the Council, the Member must give not less than 10 clear working days' notice in writing to the Monitoring Officer via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The motion must be signed by the mover and the seconder.

The Monitoring Officer shall consider the motion in accordance with the provisions of Council Procedure Rule 13. If accepted, the Monitoring Officer shall place the motion on the agenda for the next meeting of the Council, provided that such a meeting is neither a Special Meeting nor Annual Council Meeting. This may be at an Extraordinary Meeting of the Council if the provisions of Council Procedure Rule 4 have been complied with. The motion before the Council shall be considered as the first item of business after the receipt of any declarations of interest, approval of minutes of the last Meeting and questions by the public.

During the consideration of such a motion, the Chair shall cease to be Chair of the Council and shall be an ordinary Member of the Council. The Monitoring Officer, or their representative, shall act as Chair during consideration of the motion.

After debate, the motion shall be put to the vote and if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the Meeting shall be chaired by the Vice Chair.

## **29.3 Consequence**

Where a motion of no confidence in the Chair of the Council is carried, the Chair shall cease to be the Chair of the Council with immediate effect. The Council shall proceed to elect a new Chair at that meeting of the Council. The item of election of the new Chair shall be chaired by the Monitoring Officer or their representative.

## **RULE 30: Business of an Urgent Nature**

If having consulted both the Chief Financial Officer and the Monitoring Officer, the Chief Executive is of the opinion that urgent action is required, in accordance with the Scheme of Officer Delegations, before a decision could be taken by Council, the Executive or a Committee that has the appropriate authority, they may take the decision in accordance with their urgency power as set out in the Part 4A of the Constitution (Officer Scheme of Delegations).

If the decision is one which would normally be taken by the Council, the Chief Executive will consult with the Leader of the Council and all other Group Leaders, where practicable. If the decision is one which would normally be taken by the Executive, the Chief Executive will consult with the Leader. If the decision is one which would normally be taken by a Committee, the Chief Executive will consult with the Leader and the Chair of that Committee.

Every such decision shall be reported to the next available Ordinary Meeting of the Council, Executive or the Committee that would normally have taken the decision.

### **RULE 31: Filming and recording**

The law allows the proceedings of council meetings which are open to the public to be filmed and/or recorded. Any such filming or recording can be by any member of the public, whether or not they are connected with the media. For more information about this, please see <https://www.westoxon.gov.uk/media/zz2cbxhw/filming-and-recording-of-meetings-protocol.pdf>

### **RULE 32: Suspension and Amendment of Council Procedure Rules**

#### **32.1 Suspension**

All of these Council Procedure Rules except those parts of Rule 17 relating to the right to record an individual vote; and Rule 21 relating to the signing of minutes at an extraordinary meeting, may be suspended by motion on notice, or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

#### **32.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, where a report will be received with a recommendation from the Monitoring Officer.

### **RULE 33: Application of Rules to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of full Council.

None of the rules apply to meetings of the Executive, except where expressly stated.

Subject to any requirements or exceptions set out in them, the following Rules:

- Rule 6 (Time and Location of Meeting)
- Rule 7 (Notice and Summons)
- Rule 8 (Chair of meeting)
- Rule 9 (Quorum)
- Rule 10 (Duration of meeting)
- Rule 11 (Questions and engagement from the Public)
- Rule 12 (Questions by Members)
- Rule 13 (Motions on notice)
- Rule 14 (Motions without notice)
- Rule 15 (Rules of debate for Council)
- Rule 16 (Motion to rescind or amend previous decisions)
- Rule 17 (Voting)
- Rule 21 (Minutes)
- Rule 23 (Attendance and Conduct by Members)
- Rule 23 (Attendance and Conduct by the Public)
- Rule 32 (Suspension and Amendment of Council Procedure Rules)
- Rule 33 (Application to Committees and Sub-Committees)

shall apply to meetings of Committees and Sub-Committees, including the Overview and Scrutiny Committee and Overview and Scrutiny Sub-Committees

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## 5B EXECUTIVE PROCEDURE RULES

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### 1.0 INTRODUCTION

The Executive Procedure Rules have been adopted by the Council to help achieve the following:

- To protect the interests of the Council, individual Members and Officers;
- To ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
- To ensure that decisions are made in accordance with the Council's agreed governance arrangements.

These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:

- Scheme of Delegations (Part 4)
- Access to Information Procedure Rules (Part 5G)
- Overview and Scrutiny Procedure Rules (Part 5C)
- Members' Code of Conduct (Part 6A)
- Member / Officer Protocol (Part 6B)
- Article on Decision Making (Part 2H)

### 2.0 HOW THE EXECUTIVE OPERATES

#### 2.1 Who may make Executive decisions?

The arrangements for the discharge of Executive functions may be set out in the Executive arrangements, being these Executive Procedure Rules, adopted by the Council and forming part of the Constitution.

The exercise of any arrangements not set out here, may be decided by the Leader of the Council.

In either case, the Executive Procedure Rules or the Leader may provide for Executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a Committee of the Executive;
- (iii) an individual Executive Member;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) Under Joint Arrangements; or
- (vii) By another Local Authority.

## 2.2 Delegation by the Leader of the Council

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in [Part 3D \(Executive Functions\)](#) of this Constitution.

The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- (ii) the extent of any authority delegated to Executive Members individually, including details of any limitation or consultation requirement on their authority;
- (iii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to Area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year; and
- (v) the nature and extent of any delegation to Officers with details of any limitation or consultation requirements on that delegation, and the title of the Officer to whom the delegation is made.

## 2.3 Sub-delegation of Executive functions

All Executive power vests in the Leader of the Council. The Leader may discharge any Executive function, or may arrange for any Executive function to be delegated to the Executive, an individual Executive Member, a Committee of the Executive, an Area Committee, or an Officer.

If the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive, to an Officer, or to another body in accordance with joint working arrangements, but not to an Individual Executive Member.

Unless the Executive directs otherwise, where a Committee of the Executive or an individual Executive Member is responsible for an Executive function, they may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## 2.4 Changes to delegation arrangements

This Constitution set out the delegation arrangements currently in force in the authority. The Leader may amend the delegation arrangements in respect of Executive functions at any time, but any other amendment may only be carried out by the Council.

To amend delegation arrangements in respect of Executive functions, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment, and whether it entails the addition or withdrawal of delegation from any person, body, Committee or the Executive as a whole.

The Monitoring Officer will present a report to the next Ordinary Meeting of the Council setting out the changes made by the Leader, and will produce a revised statement of delegation arrangements for inclusion in [Part 3D](#) of this Constitution.

Where the Leader seeks to withdraw delegation from a Committee or Sub-Committee, notice will be deemed to be served on that Committee when it has been served on the Committee's Chair.

## **2.5 Conflicts of Interest**

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

## **3.0 EXECUTIVE WORK PROGRAMME**

Subject to the Access to Information Procedure Rules in Part 5G, where an Executive decision is either "key" (see Part 2H Article on Decision Making) or "exempt" (see Part 5G), the decision shall not be taken unless details have been included and published for at least 28 days on the Executive Work Programme (sometimes known as the Forward Plan).

This requirement applies regardless of which individual or body is the decision maker and is therefore applicable to decisions to be made by the Executive collectively, or individually, and to Officers.

## **4.0 EXECUTIVE DECISIONS MADE BY THE EXECUTIVE**

When an Executive function has been delegated by the Leader to the body of the Executive as a whole, it may only exercise such functions and make such decisions at an Executive Meeting. Such a meeting must be held in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) Regulations 2012.

### **4.1 Timing and Location**

The Executive shall meet at least 10 times per year at times and on dates to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader, in consultation with the Monitoring Officer.

#### **4.2 Public access to meetings of the Executive**

Meetings of the Executive will be open to the public, except when confidential or exempt information is being discussed. Further information on this is given in the Access to Information Procedure Rules in [Part 5G](#) of this Constitution.

#### **4.3 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be three members of the Executive. No substitutions are permitted.

#### **4.4 Chair**

If the Leader is present they will preside and Chair the Executive meeting. In their absence, the Deputy Leader will act as Chair, and in the absence of both the Leader and Deputy Leader then a person appointed to do so by those present shall preside.

#### **4.5 Member attendance at an Executive meeting**

Any member of the Council may attend any Executive meeting, and subject to the provisions in the Access to Information Procedure Rules at Part 5G of the Constitution, may remain present where the press and public have been excluded by the Executive.

#### **4.6 Business of an Executive Meeting**

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

- consideration of the minutes of the last meeting;
- apologies for absence
- declarations of interest, if any;
- participation of the public;
- receipt of announcements;
- matters referred to the Executive (whether by the Overview and Scrutiny Committee, by the Council or by the Audit and Governance Committee) for consideration by the Executive;
- consideration of reports from the Overview and Scrutiny Committee; and
- matters set out in the agenda for the meeting.

#### **4.7 Agenda items at an Executive Meeting**

The Council, the Overview and Scrutiny Committee, any other Committee of the Council, and any Member or Statutory Officer of the Council, may place an item on the agenda of a meeting of the Executive.

If the volume of business for any one meeting appears excessive, the Leader and the Monitoring Officer jointly may agree to defer consideration of items to a later meeting, except that:

- (i) items placed on the agenda by the Council may not be deferred if the Council requires them to be considered at that meeting;



- (ii) reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at that meeting; and
- (iii) no deferral will be for more than two Ordinary meetings of the Executive (unless the person or body placing the item agrees).

#### **4.8 Consultation**

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### **4.9 Written Reports for the Executive**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Financial Officer.

The Officer's report shall include the following:

- The Executive portfolio within which the issues fall;
- The Ward(s) affected by the proposed decision;
- The name and title of the Officer writing the report;
- The name and title of the Accountable Officer;
- The date of the meeting at which the decision may be taken;
- The subject and title of the report;
- Whether the decision proposed in the report is a key decision or not;
- Whether the report contains exempt or confidential information;
- A description of the issue to be decided;
- Any consultation undertaken, the method and a summary of representations received;
- The Officer's recommendations and the reasons for them;
- Details of any alternative options considered;
- A list of background papers;
- Which of the Council's priorities the matter impacts;
- Legal implications;
- Financial implications;
- A risk assessment;
- Information on equalities impact; and
- Climate and ecological emergencies impact.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic

- services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

#### **4.10 Decisions of the Executive**

Subject to the Access to Information Procedure Rules, after a decision has been taken by the Executive, draft minutes of the meeting will be published on the Council's website which shall include:

- The title of the item;
- The title of the decision making body;
- The date on which the decision was made;
- The date on which the decision may be implemented;
- Whether or not it was a key decision;
- Any declarations of discloseable pecuniary interests;
- The decision;
- The reasons for the decision.

The draft minutes will not be a verbatim record of the meeting.

The draft minutes will be published on the Council's website and made available to all Members via the democratic services electronic system by the end of the 5<sup>th</sup> working day following the day of the meeting.

### **5.0 EXECUTIVE DECISIONS MADE BY AN INDIVIDUAL EXECUTIVE MEMBER**

#### **5.1 Decision Making by an Individual Executive Member**

All decisions made by an Individual Executive Member are to be made following an Officer report and must be recorded on a Decision Notice, which must be made publically available by the end of the second working day following receipt of the Decision Notice.

All decisions made by an Individual Executive Member must be made in accordance with Part 2H of the Constitution; Article 8 which contains the principles of decision making.

#### **5.2 Consultation**

The requirements as to consultation set out in paragraph 4.8 above apply equally to Executive decisions to be made by an Individual Executive Member.

#### **5.3 Written Reports for Individual Executive Member Decisions**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Finance Officer.

The report must contain the items as set out at paragraph 4.9 above.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

#### **5.4 Timescales**

Subject to the Access to Information Rules, the decision may not be taken by the Individual Executive Member until the expiry of the time specified in the Executive Work Programme for a key decision ie 28 days. Further, the decision cannot be taken by the Individual Executive Member before the expiry of 5 clear working days after publication of the report. These two time periods can run concurrently.

The decision should be made by the Individual Executive Member within 14 days of the earliest date upon which the decision may be made.

The Individual Executive Member shall provide a written record of their decision, including reasons, to the Monitoring Officer by email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) within one full working day of the decision being made. Subject to Access to Information Rules, the decision notice will be published on the Council's website, and made available electronically to all Members via the democratic services electronic system, by the end of the second day following receipt of the Decision Notice.

#### **5.5 Interests**

Prior to taking the decision, the Individual Executive Member will be required to consider whether they have any disclosable pecuniary interest or other interest in the matter as described in the Member's Code of Conduct. If the interest prevents the Individual Executive Member from taking the decision, they should take no part in it and refer the matter to the Leader without comment, save as to record the nature of their interest.

#### **5.6 Leader making a decision referred by an Individual Executive Member**

The Leader may either make a decision on a report referred to them by an Individual Executive Member in accordance with paragraph 5.5 above, or may refer the report to the next meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a meeting of the Executive on the Decision Notice.

#### **5.7 Delegations**

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader

removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified and Part 3 of the Constitution updated.

#### **5.8 Record of Decisions made by Individual Executive Members**

A Decision Notice, setting out the decision, must be completed by the Individual Executive Member. The Decision Notice must include the items set out at paragraph 4.10 above.

#### **6.0 EXECUTIVE DECISIONS MADE BY AN OFFICER**

Decisions made by Officers, whether Executive or not, should be made in accordance with the Officer Decision Making Protocol at Part 6H of the Constitution.

Where Executive decisions are delegated to a Committee of the Executive, or to individual Executive Members, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

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## 5C Overview and Scrutiny Rules

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### Terms of reference

1. Scrutiny Committees will have the power to investigate any matters they consider relevant to their work area, and to make recommendations to the Council, the Executive or any other Committee or Sub-Committee of the Council as they see fit.
2. Their terms of reference will be:-
  - (i) the performance of the Overview and Scrutiny functions on behalf of the Council in relation to the work allocated to that Committee. It is intended that the work should be wide ranging and cut across the organisational structure of the Council.
  - (ii) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions. This includes the power to form joint Sub-Committees with the Overview and Scrutiny Committee.
  - (iii) to receive reports from the leader at its first meeting after each annual Council meeting on the Executive's priorities for the coming year and its performance in the previous year;
  - (iv) to approve a work programme for the Committee, including the programme of any Sub-Committees it appoints so as to ensure that time is effectively and efficiently utilised;
  - (v) to receive requests from the Executive and/or the full Council for Overview and Scrutiny reports and to respond accordingly;
  - (vi) to put in place a system to ensure that referrals from the Committee to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made
3. Scrutiny Committees should not be regarded primarily as an "appeals mechanism" to overturn or amend specific decisions (although they may, if they see fit, ask the Executive, the Council or another Committee to reconsider a decision); rather their function is to raise issues for consideration, to examine the intent and effectiveness of policy, to hold the Executive to account, and to represent the interests and views of the public within the Council.

### Who may sit on Overview and Scrutiny Committee?

4. The Overview and Scrutiny Committee will reflect as nearly as possible the political composition of the Council as a whole.
5. Any Councillor except a member of the Executive may be a member of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which they have been directly involved. Members of the Executive shall not be eligible to sit on the Overview and Scrutiny Committee, either in their own right or as substitutes.
6. The Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of people as non-voting co-optees.

### **Meetings**

7. There shall be at least six ordinary meetings of the Overview and Scrutiny Committee in each civic year. A programme of dates will be agreed by the Council early in each calendar year, as shall the time for the first meeting of the Overview and Scrutiny Committee after the annual meeting of the Council. However, the Committee may agree the times for its subsequent meetings at its first meeting in each civic year.
8. Normally, the Committee will meet at intervals ranging from six to eight weeks, although this may be varied when the programme is agreed, and additional meetings may take place as specified in the following paragraph.
9. Special meetings of the Overview and Scrutiny Committee may be called at any time by the relevant Committee Chair (or in their absence, by the Vice-Chair), by the full Council, by any five members of the Committee, or by the Chief Executive, providing at least five clear working days' notice is given.
10. In exceptional circumstances meetings may be called by the Chair with fewer days notice, providing the issue(s) to be discussed require an urgent decision, and providing as much notice as possible is given.

### **Quorum**

11. The quorum shall be such number as may be fixed by the Committee or Sub-Committee, provided that the number shall be:
  - (i) not less than one quarter of the total membership of the Committee or Sub-Committee; and
  - (ii) subject to a minimum of three.
12. If a Committee or Sub-Committee does not fix a quorum, then the figure shall be one-quarter of its membership, or three, whichever is the greater.

### **Chairing Overview and Scrutiny Committee meetings**

13. The Overview and Scrutiny Committee shall at its first meeting after the annual meeting of the Council elect a Chair and Vice-Chair from amongst the members of the Committee. If either position becomes vacant during the course of the year it will be filled by the Committee at its next meeting.

### **Work programme and annual report**

14. The Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.
15. The Overview and Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### **Agenda items**

16. Any member of the Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
17. The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council, the Executive, or any other Committee of the Council, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Council, the Executive or the relevant Committee, as it deems appropriate.
18. Under the Councillor Call for Action, Members may also bring matters of ward concern to the attention of the Council via the Scrutiny process. The Call for Action is deemed to be an option of “last resort” and details of its operation are set out in the Councillor Call for Action Protocol in Part 4-10 of this Constitution.

### **Policy review and development**

19. The role of the Overview and Scrutiny Committee in relation to the development of the Council’s budget and policy framework is set out in detail in the [Budget and Policy Framework Procedure Rules](#).
20. In addition, the Overview and Scrutiny Committee may make whatever recommendations or observations they see fit to the Council, the Executive or any other Committee of the Council, who must then consider them within six weeks of receipt.
21. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public

surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

22. Where the cost of any single item of work exceeds £1,000, the Overview and Scrutiny Committee will need the prior consent of the Council or the Executive to incur the expenditure. The Council will make budget provision available as necessary for that purpose and the Overview and Scrutiny Committee will be responsible for and manage that budget in accordance with the [Financial Procedure Rules](#) and [Part 2, Article 9](#) of the Constitution.

### **Reports from Overview and Scrutiny Committee**

23. Once it has formed recommendations or observations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by whichever body in the Council the Committee deems appropriate.
24. If an Overview and Scrutiny Committee cannot agree on one single final report, then up to two minority reports may be prepared and submitted for consideration with the majority report.
25. The body receiving the report shall consider it within six weeks of it being submitted to the Chief Executive, or such longer timescale as the Chair of the Overview and Scrutiny Committee may agree.

### **Consideration of Overview and Scrutiny Committee reports**

26. The agenda for Council, Executive and Committee meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. Reports referred by the Overview and Scrutiny Committee shall be included at this point in the agenda (unless they have been considered in the context of deliberations on a substantive item on the agenda) within six weeks of the Overview and Scrutiny Committee submitting its report, or such longer timescale as the Chair of the Overview and Scrutiny Committee may agree.

### **Rights of Overview and Scrutiny Committee members to documents**

27. In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in [Part 5F](#) of this Constitution.
28. The Overview and Scrutiny Committee will have access to the Executive work plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee, the Committee will be entitled to respond in the course of the Executive's consultation process in relation to any key decision.



29. Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### **Members and officers giving account**

30. Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance
- and it is the duty of those persons to attend if so required.
31. In this context “senior officer” means the Chief Executive, any Director or Assistant Director, the Monitoring Officer, or any of the Council’s Heads of Service.
32. Where any member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least five clear working days’ notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
33. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### **Attendance by others**

34. An Overview and Scrutiny Committee may invite people other than those people referred to in paragraphs or above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
35. Attendance is of course entirely optional.

#### **Call-in**

36. Where a decision is:
- (i) a key decision; or
  - (ii) is taken by the Executive itself; or
  - (iii) is taken under powers delegated by the Executive to individual Executive member(s); or
  - (iv) is taken under powers delegated by the Executive to a Committee or Sub-Committee; or
- that decision shall be notified to all members of the Council as soon as possible after it is taken and shall be made available at the main offices of the Council.
37. The decision shall not be implemented for at least five clear working days after the notification is issued, unless the Leader (or, in their absence, the Deputy Leader or the Executive itself) with the support of the Chair of a Scrutiny Committee relevant to the issue decides that the matter is urgent, in which case the decision may be implemented immediately. In such a case all members of the Council shall be notified of the reasons for urgency.
38. The notice communicating the decision will bear the date on which it is published and will specify the date by which any objection to it must be lodged for it to be called in.
39. During that period, any four members of the Council will have the right to ask for the decision to be called-in for scrutiny by the Overview and Scrutiny Committee. Such a request must be made in writing and must state the reason the members believe call-in to be necessary. On receipt of such a request, submitted within the time limit allowed, the Chief Executive shall determine whether the reasons given for call-in are sufficient and if so they will call-in the decision, and notify the decision-taker of the call-in. The Chief Executive shall then either refer the call-in to the next available meeting of the Overview and Scrutiny Committee or call a meeting of the Committee on such date as the Chair of the Committee may determine. If when considering a request for call-in the Chief Executive does not consider the reasons given to be sufficient, they will notify the relevant members in writing setting out why the call-in request has not be accepted.
40. Pending that meeting, the decision shall stand deferred and shall not be implemented unless:
- (i) the Leader (or, in their absence, the Deputy Leader or the Executive itself) with the support of the Chair of an Overview and Scrutiny Committee relevant to the issue decides that the matter is urgent. In such a case all members of the Council shall be notified of the reasons for urgency; or
  - (ii) the member who requested the call-in agrees to withdraw that request.
41. In either of these circumstances the decision may be implemented as soon as the initial period for objections has lapsed.
42. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council (see also paragraph 45 below). If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision. That final decision shall not be subject to any further call-in procedure.

43. If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter either to Council or back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting.
44. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below.
45. However, if the Council does object, it has no locus to make decisions in respect of a Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
46. If the Council does not decide to refer the decision back to the decision making body or person, the decision shall take effect on the date of the Council meeting.
47. A recommendation from the Executive to the Council shall not be subject to the call-in provisions set out in these rules.
48. A decision-making person or body can only be required to reconsider any particular decision once.

#### **Procedure at Overview and Scrutiny Committee meetings**

49. The Overview and Scrutiny Committee and Sub-Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Council, Executive or other Committees to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
50. Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

51. Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Council, Executive or other Committee as it deems appropriate and shall make its report and findings public.

### **Councillor Call for Action Protocol**

1. The Councillor Call for Action is a mechanism for enabling elected members to bring matters of ward concern to the attention of the Council, via the Scrutiny process.
2. The Constitution provides that any councillor may request that an item is placed on the Overview and Scrutiny Committee agenda, for consideration. The member making that request does not have to be a member of the Overview and Scrutiny Committee. Inclusion of the matter on the agenda is at the discretion of the Chair.
3. The Constitution also provides for the consideration of petitions submitted by members of the public. Ward councillors may encourage citizens to submit petitions as means of bringing issues of concern to the Council's attention.
4. The Call for Action is deemed to be an option of "last resort". A Call for Action will only be included on the Overview and Scrutiny Committee agenda if the Chair, in consultation with the Chief Executive, Finance Director or Monitoring Officer, is satisfied that:
  - the councillor has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
  - the issue of concern is a matter in respect of which the council has a statutory power or duty to deal with and is not precluded by adopted council policy or legislation; and
  - the issue of concern has a demonstrable impact on a part or the whole of the councillor's ward; and
  - the Call for Action does not, in any event, relate to:
    - (a) any matter relating to a planning decision;
    - (b) any matter relating to a licensing decision;
    - (c) any Council Tax/Housing Benefit complaints and queries;
    - (d) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
    - (e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-committee thereof.
5. A valid Call for Action will be considered at the next ordinary meeting of the Overview and Scrutiny Committee.
6. The subject matter of the Call for Action will be the subject of a report from the relevant Head of Service, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of

information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.

7. The Call for Action will be considered by the Overview and Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.
8. A ward councillor may address the Overview and Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
9. The Overview and Scrutiny Committee may also consider representations from any citizens of the ward affected by the Call for Action, subject to the discretion of the Chair.
10. The ward councillor's role in the consideration of the Call for Action, as with any other formal Council business, is subject to compliance with the Members' Code of Conduct.

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### 5D Procedure in relation to Licensing Applications

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The following procedure shall apply in relation to the determination of applications at meetings of Miscellaneous Licensing Sub-Committee:

- (1) Introductory remarks by the Chair.
- (2) Brief description of the application by the Council's Officers, including summary of written representations, observations and objections received from parties not attending the meeting in person to make oral representations.
- (3) Observations of consultees/relevant authorities.
- (4) Other submissions by way of objection.
- (5) Presentation by the applicant of the case for granting an application.
- (6) Members' questions.
- (7) Summing up by
  - a) The Council's Officers
  - b) The Applicant
- (8) Members retire for determination of the decision.
- (9) Members return to communicate their decision.
- (10) Decision is then provided to the applicant in writing which will also contain information regarding any right of Appeal.

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**5E Standards Sub-Committee Procedure Rules**

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These procedure rules apply to meetings of the Standards Sub-Committee, or the Audit and Governance Committee, when sitting to hear and determine a member code of conduct complaint referred to it by the Monitoring Officer.

**1.0 DEFINITIONS**

Complainant(s)	The person/people making the complaint.
Subject Councillor	The Councillor, co-optee, or Town or Parish Councillor against whom an allegation has been made.
Appointed representative	The Subject Councillor may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Standards Sub-Committee Members, another person.
Standards Sub-Committee	<p>A Sub-Committee of the Audit and Governance Committee in accordance with the provisions of the <i>Local Government Act 1972</i>.</p> <p>A meeting of the Standards Sub-Committee will consider whether the Subject Councillor has breached the Code of Conduct.</p> <p>A Sub-Committee of the Audit and Governance Committee, in accordance with the provisions of the Local Government Act 1972.</p> <p>Comprising 5 members of the Audit and Governance Committee, appointed by the Audit and Governance Committee.</p>
Independent Person	An Independent Person will be invited by the Monitoring Officer to attend the Standards Sub-Committee as a Member of the Sub-Committee. Their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Councillor's conduct constitutes a failure to comply with the Code of Conduct, in accordance with the provisions of the

	<i>Localism Act 2011</i> , and as to any action to be taken following a finding of failure to comply with the Code of Conduct
Investigating Officer	The person appointed by the Monitoring Officer to undertake a formal investigation on behalf of the Monitoring Officer. This person may be another Officer of the Council, an Officer of another Council or an external third party investigator appointed for the purpose.
Investigating Officer's report	The report of the Investigating Officer to the Monitoring Officer, setting out their findings and recommendations in respect of the allegation.
Legal Advisor	The Officer responsible for providing legal advice to the Standards Sub-Committee. This may be the Monitoring Officer, another legally qualified Officer, or an external third party legal advisor appointed for the purpose.
Chair	The Chair of the Standards Sub-Committee elected by that Sub-Committee to chair meetings for the municipal year.
Code	The Members' Code of Conduct for the relevant Authority formally adopted by it at the relevant time.
The Monitoring Officer	The Officer designated as such by West Oxfordshire District Council in accordance with <i>section 5 of the Local Government and Housing Act 1989</i> .
Exempt Information	As defined in <i>Section 100A and Schedule 12A to the Local Government Act 1972</i>

## 2.0 INTRODUCTION

Where the Monitoring Officer considers that it is in the public interest for a complaint to be considered by the Standards Sub-Committee, a Sub-Committee meeting will be convened, to determine whether the Subject Councillor has failed to comply with the Code of Conduct.

The Monitoring Officer will seek to convene the Sub-Committee meeting within 25 working days of receipt of the final Investigator's report or as soon as practicably possible thereafter. The Standards Sub-Committee will comprise 5 members appointed to that Committee by the Audit and Governance Committee, plus an Independent Person allocated to each meeting on a case by case basis by the Monitoring Officer, to act as a co-opted member of that Sub-Committee. For a meeting of the Standards Sub-Committee to be quorate and proceed, a minimum of three elected members of the Standards Sub-Committee plus an Independent Person must be present.

### **3.0 PRE-HEARING PROCESS**

The Monitoring Officer may invite the Subject Councillor to give a response in writing to the Investigator's report. This is done to establish what is likely to be agreed and what is likely to be in dispute at the hearing.

The Standards Sub-Committee, taking account of the advice of the Monitoring Officer, may issue directions about the way in which a Determination Hearing will be conducted, for example agreeing the number and identity of witnesses. Such directions may be given either before or at the Sub-Committee meeting, and may be decided at a pre-meeting or by correspondence involving all members of the Standards Sub-Committee.

Any pre-meeting to deal with pre-hearing process issues will be held in private without the Complainant or the Subject Councillor present.

### **4.0 DOCUMENTATION**

Standards Sub-Committee meetings are subject to the normal rules for publication of Council Agendas and Access to Information.

The Agenda papers for the Standards Sub-Committee will include:

- Complaint form and documentation
- Subject Councillor's written response
- Investigating Officer's report
- Monitoring Officer report
- For reference: Code of Conduct, Standards Committee Local Hearing Panel Procedure Rules

The Agenda and documents will be published under the Council's rules for exempt information. Prior to the Sub-Committee meeting, any documentation issued or exchanged during the process must be treated by all recipients as confidential unless and until the Sub-Committee resolves that the press and public should be excluded from the meeting at which the allegations are going to be heard.

If the Sub-Committee agrees that the meeting should be held in public, the Investigating Officer's report will be made available to the press and public in attendance at the meeting. The Chair may, at their discretion, allow a short adjournment of the meeting to enable them to read the report.

### **5.0 DETERMINATION HEARING PROCEDURE**

5.1 The Standards Sub-Committee will follow usual Committee procedures for apologies, and declarations of interests. The meeting shall be chair by the elected Chair, or their

- deputy in their absence. In the absence of both the Chair and the Deputy, the Sub-Committee will elect a Chair for that particular meeting.
- 5.2 The quorum for a Sub-Committee meeting will be 3 elected Members. Substitute Members are allowed only from the membership of the Audit and Governance Committee Members will only be able to sit on the Standards Sub Committee for a Determination Hearing if they have undertaken standards training.
  - 5.3 The Sub-Committee will be assisted on matters of law and procedure by the Legal Advisor. The Sub-Committee may take legal advice, in private, if necessary, from the Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Subject Councillor and the Investigating Officer.
  - 5.4 The hearing will normally be held in public. However, the Sub-Committee will consider, having regard to any representations made by the Investigating Officer and / or by the Subject Councillor and advice from the Legal Advisor as to the public interest, whether to hear the matter, after the passing of a resolution to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in *Section 100A and Schedule 12A to the Local Government Act 1972*.
  - 5.5 The Subject Councillor may be represented or accompanied by Counsel or a Solicitor or, with the permission of the Sub-Committee, any other person.
  - 5.6 Normal hearing rules will apply in terms of providing opportunities to question witnesses and test evidence, subject to the principles of natural justice and the Human Rights Act 1998.
  - 5.7 If the Subject Councillor (or their appointed representative) is not present, then the Sub-Committee will consider whether to proceed and hear the case and make a decision in absence, or whether to adjourn the hearing to another time or date. If the Subject Councillor has indicated that the hearing should continue in the absence of the Subject Councillor, this will normally happen.
  - 5.8 The Chair will introduce the Members of the Sub-Committee, the Independent Person, the Legal Advisor, the Investigating Officer, the Subject Councillor and any other persons present.
  - 5.9 The Legal Advisor will give a brief outline of the allegation before the Sub-Committee, namely that the Subject Member has failed to comply with the Code of Conduct, and outline the procedure to be followed and confirm that those present understand it.
  - 5.10 The Investigating Officer will present the report into the allegation against the Subject Councillor including any findings of fact and make representations to substantiate the conclusion that the Subject Councillor has failed to comply with the Code of Conduct.
  - 5.11 The Subject Councillor (or their representative) may question the Investigating Officer.
  - 5.12 The Sub-Committee Members may question the Investigating Officer.

- 5.13 The Investigating Officer may call such witnesses as necessary (which may or may not include the Complainant).
- 5.14 The Subject Councillor (or their appointed representative) may question any witnesses called by the Investigating Officer.
- 5.15 The Sub-Committee Members may question any witnesses called by the Investigating Officer.
- 5.16 The Investigating Officer may ask further questions of any witnesses in order to clarify any point brought out in questioning of the witness by the Subject Councillor or the Sub-Committee.
- 5.17 The Subject Councillor (or their appointed representative) will present the case in relation to the Investigating Officer's findings and make representations about why the Subject Councillor considers that they did not fail to comply with the Code of Conduct. If the Subject Councillor admits that they breached the Code of Conduct the Sub-Committee may move to paragraph 5.32 below.
- 5.18 The Investigating Officer may question the Subject Councillor.
- 5.19 The Sub-Committee may question the Subject Councillor.
- 5.20 The Subject Councillor may call any witnesses.
- 5.21 The Investigating Officer may question any witness called by the Subject Councillor.
- 5.22 The Sub-Committee may question any witness called by the Subject Councillor.
- 5.23 The Subject Councillor may ask further questions of any witness in order to clarify any point brought out in questioning of the witness by the Investigating Officer or the Standards Sub-Committee.
- 5.24 The Independent Person may ask questions of the Investigating Officer, the Subject Councillor and any witness called by either of them, after such persons have been questioned by the Standards Sub-Committee.
- 5.25 The Investigating Officer will sum up the case in relation to the findings in their report.
- 5.26 The Subject Councillor (or their appointed representative) will sum up the case in relation to the findings in the Investigating Officer's report of whether there has been a breach of the Code.
- 5.27 The Independent Person will give their views to the Sub-Committee and these will be recorded in the Minutes of the meeting.
- 5.28 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Committee will need to pass a resolution under *Section 100A of the Local Government Act 1972* to exclude the public from the meeting. The Sub-Committee must take into account the views of the Independent Person before reaching a decision. Decisions will be determined by a simple majority of those Members present and voting; the Independent Person does not have a vote. Where there are equal

numbers of votes for and against the Chair will have a second casting vote and there is no restriction on how the Chairman chooses to exercise a casting vote.

- 5.29 The Sub-Committee will announce their decision as to whether there has been a breach of the Code in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. The Sub-Committee will provide reasons for their decision and will explain any reasons why any advice from the Independent Person has or has not been followed in giving its decision.
- 5.30 If the Sub-Committee decide that the Subject Councillor has not breached the Code, they shall dismiss the complaint and take no further action. However, they may still make general recommendations to the Council, its Audit and Governance Committee, the Monitoring Officer, or the Town or Parish Council, on any remedial actions, if it considers necessary to address the issues raised.
- 5.31 If the Sub-Committee decide that the Subject Member has breached the Code then the following paragraphs will apply.
- 5.32 The Sub-Committee may request, or allow, the Complainant, whether or not called as a witness, to make a statement in relation to the effect on the Complainant of any conduct of the Subject Councillor which is the subject of the breach. Such a statement may be made in person to the Sub-Committee or may be submitted in writing, but if submitted in writing, will be shown to both the Investigating Officer, the Subject Councillor and the Independent Person. A Complainant who makes such a statement may be questioned by the Sub-Committee, but may not be questioned in relation to the statement by the Investigating Officer or the Subject Councillor without the consent of the Sub-Committee.
- 5.33 The Investigating Officer may make representations as to whether the Sub-Committee should impose a sanction and what form any sanction should take.
- 5.34 The Sub-Committee may question the Investigating Officer in relation to any such representations.
- 5.35 The Subject Councillor (or their appointed representative) may make representations as to whether the Sub-Committee should impose a sanction and what form any sanction should take and may make representations as to mitigation.
- 5.36 The Sub-Committee may question the Subject Councillor in relation to any such representations.
- 5.37 The Legal Advisor will then raise any points that need to be addressed before the matter is determined.
- 5.38 The Independent Person will then give their views on the appropriate sanction, if any, to be imposed and their views will be recorded in the Minutes of the meeting.
- 5.39 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Sub-Committee will need to pass a resolution under *Section 100A of the Local Government Act 1972* to exclude the public from the meeting.

5.40 The Sub-Committee will come to a decision as to sanctions. Any sanction imposed must be reasonable and proportionate to the breach found and the Legal Advisor may advise the Sub-Committee in this regard. The Sub-Committee has no power to suspend or disqualify the member or to withdraw or suspend allowances. The Sub-Committee may:

- Censure or reprimand the Subject Councillor;
- Recommend to the Subject Councillor's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject Councillor be removed from the Executive or removed from particular Executive Portfolio responsibilities;
- Recommend to Council that the Subject Councillor be replaced as Executive Leader of the Council;
- Instruct the Monitoring Officer to, or recommend that a Town or Parish Council, arrange training for the Subject Councillor;
- Publish its findings in respect of the Subject Councillor's conduct;
- Report its findings to Council, or to a Town or Parish Council, for information.

The above is not exhaustive.

5.41 The Sub-Committee will announce its decision in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. The Sub-Committee will give reasons for its decision and will explain the reasons why any advice from the Independent Person has or has not been followed in giving its decision.

5.42 The Monitoring Officer will, within 10 working days of the Sub-Committee meeting prepare a formal Decision Notice, and send a copy to the Complainant, to the Investigating Officer and to the Subject Councillor (and to the Town or Parish Council if appropriate). The Decision Notice will be published as part of the Minutes of the Sub-Committee meeting and will be placed on the Council's website, regardless of whether the Sub-Committee excluded the press and public for the meeting or not, unless the Monitoring Officer determines that it should remain confidential.

5.43 The findings and recommendations of the Sub-Committee are final and there is no right of appeal against the decision of the Standards Sub-Committee.

5.44 The Chair of the Sub-Committee has the right to depart from this procedure, in consultation with the Monitoring Officer, or Legal Advisor, at any determination hearing where it is considered it is sensible to do so, to deal with the case fairly, effectively and in the public interest, provided that the principles of natural justice are upheld.

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## 5F Budget and Policy Rules

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### 5F.1 The Framework for Executive Decisions

The Council will be responsible for the adoption and amendment of its budget and policy framework. Once the budget and policy framework is in place, it will be the responsibility of the Executive to implement it.

### 5F.2 The Process for Developing the Framework

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

- 2.1 At least two months before a plan/strategy/budget needs to be adopted, the Executive will publish initial proposals for the amendment of the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the Executive's consultation process shall be included in relation to each of these matters in the Executive work plan, together with any other publicity the Executive deems appropriate.
- 2.2 Any representations made to the Executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Executive and considered in the preparation of initial proposals.
- 2.3 The Executive's initial proposals shall be referred to the Overview and Scrutiny Committee for further advice and consideration. The Overview and Scrutiny Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee shall report to the Executive on the outcome of its deliberations.
- 2.4 The Overview and Scrutiny Committee shall have six weeks to respond to the initial proposals of the Executive unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.
- 2.5 Having considered the report of the Overview and Scrutiny Committee, the Executive, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- 2.6 The Council will consider the proposals of the Executive and may adopt them. In considering the matter, the Council shall have before it the Executive's proposals and any report from the Overview and Scrutiny Committee.

- 2.7 Where, following consideration of a draft plan or strategy submitted by the Executive, the Council has any objections to it, it must inform the Executive leader of any objections and must give to him/her instructions requiring the Executive to reconsider the draft plan or strategy in the light of those objections. This must be done before the Council:
- Amends the draft strategy;
  - Approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval, any plan or strategy (whether or not a draft) of which any part is required to be so submitted; or
  - Adopts (with or without modification) the plan or strategy
- 2.8 Where the Council gives instructions in accordance with 0 above it must specify a period of at least five working days beginning on the day after the Executive leader receives the instructions on behalf of the Executive within which the Executive leader may:
- (i) submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- 2.9 When the specified period of at least five working days has expired, the Council must take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement, which the Executive leader submitted to the Council, or informed the Council of, within the specified period before taking any of the actions referred to in 0 above. In these circumstances a further meeting of the Council will be convened.
- 2.10 If the Executive does not have any disagreement with the objections raised by the Council the plan or strategy will be effective at the expiry of the period of at least five working days, in accordance with the wishes of the Council.
- 2.11 The Council meeting must take place within 10 clear working days of the receipt of the Executive's written objection.
- 2.12 The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance, and shall be implemented immediately.
- 2.13 In relation to the budget where, before 8th February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year –

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts if the Council has any objections to them, it must take the action set out in the following paragraph.

2.14 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in sub-paragraph (a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive leader of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

2.15 Where the authority gives instructions in accordance with paragraph (l), it must specify a period of at least five working days beginning on the day after the date on which the Executive leader receives the instructions on behalf of the Executive within which the Executive leader may –

- (i) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
- (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

2.16 When the specified period of at least five working days has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (k)(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Executive's reasons for those amendments;
- (iii) any disagreement that the Executive has with any of the Council's objections; and
- (iv) the Executive's reasons for that disagreement,

which the Executive leader submitted to the Council, or informed the Council of, within the period specified.

2.17 Paragraphs 2.12 to 2.16 shall not apply in relation to –

- (i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

2.18 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5F.5 and 5F.6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **5F.3 Decisions outside the budget or policy framework**

- 3.1 Subject to the provisions virement the Executive, Committees of the Executive, individual members of the Executive and any officers, area Committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 5F.4 below.
- 3.2 If the Executive, Committees of the Executive, individual members of the Executive and any officers, area Committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget.
- 3.3 If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5F.4 (urgent decisions outside the budget and policy framework) shall apply.

### **5F.4 Urgent decisions outside the budget or policy framework**

- 4.1 The Executive, a Committee of the Executive, an individual member of the Executive or officers, area Committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Overview and Scrutiny Committee consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a the Overview and Scrutiny Committee the consent of the Chair of the Council, and in the absence of both the vice-Chair, will be sufficient.
- 4.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5F.5 Call-in of decisions outside the budget or policy framework**

- 5.1 Where the Overview and Scrutiny Committee is of the opinion that a Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 5.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every member of the Council.
- 5.3 Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer concludes that the decision was not a departure.
- 5.4 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- 5.5 The Council shall meet within ten working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer or the Chief Finance Officer. The Council may either:
  - 5.5.1 endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - 5.5.2 amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- 5.5.3 where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

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## 5G Access to Information Rules

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**1. Scope**

Subject to specified exceptions, these rules apply to all meetings of the Council, the Overview and Scrutiny Committee, area Committees and other Committees and meetings of the Executive (together called meetings).

**2. Additional Rights to Information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

**3. Rights to Attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

**4. Notices of Meeting**

The Council will normally give five clear working days' notice of any meeting by posting details of the meeting at The Council Offices, Woodgreen, Witney. Notice will also be given by publishing the agenda at [www.westoxon.gov.uk/meetings](http://www.westoxon.gov.uk/meetings). If for any reason it is not possible to give five clear days' notice, the Council will comply with the statutory requirements where a meeting is summonsed in a shorter period.

**5. Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at The Council Offices, Woodgreen, Witney, in accordance with the statutory requirement for these to be available five clear working days before the meeting. They will also be available from <https://www.westoxon.gov.uk/meetings>

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report has been completed and sent to Councillors.

**6. Supply of Copies**

On payment of any charge for postage, copying or other necessary charges for transmission, any person will be supplied with copies of:

- (a) any agenda and reports which are open to public inspection,
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item.

**7. Access to Agendas, Minutes and Reports after the Meeting**

The Council will make available copies of the following for a minimum of six years after a meeting, including on its website:

- (a) the minutes of the meeting or, for meetings of the Executive, records of

decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information, as defined in Rule 0 below.

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. Background Papers**

### **8.1 List of background papers**

Every report shall include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author:

- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which have been relied on to a material extent in preparing the report but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 0 below) and/or, in respect of Executive reports, the advice of a political advisor.

For Executive meetings, the listed background papers will be published on the Council's website at [www.westoxon.gov.uk/meetings](http://www.westoxon.gov.uk/meetings).

### **8.2 Public inspection of background papers**

Background papers listed in reports may be inspected by the public during the period of four years beginning with the date of the meeting.

## **9. Summary of the Rights of the Public**

This part of the Council's constitution meets the requirement that a written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices.

## **10. Exclusion of Access by the Public to Meetings**

The following paragraphs set out circumstances in which the public may be excluded from meetings, as defined by the law. However, there is a general presumption that meetings will be open to the public to attend. Any person attending a meeting open to the public for the purpose of reporting the proceedings will be afforded reasonable facilities for taking their report. In addition to the following, the public may be excluded from a meeting if necessary to maintain orderly conduct or prevent misbehaviour.

### **10.1 Confidential information – requirement to exclude public**

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

### **10.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature



of the business to be transacted or the nature of the proceedings that exempt information (as defined below) would be disclosed.

### 10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed under any enactment or by an order of a court.

### 10.4 Meaning of exempt information

Exempt information means information falling within the categories in the following table. These categories are subject to the qualifications and interpretation which follow the table.

	<b>Category</b>
	[For each of nos 1 – 0, see Qualification 1 below]
1	Information relating to any individual
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information). [see Qualification 2 below]
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### 10.5 Qualifications:

- (1) Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—
- (a) the Companies Acts (as defined in s.2 of the Companies Act 2006);
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 2011.

- (2) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (3) Information which—
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of the two preceding paragraphsis exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **10.6 Interpretation:**

- (4) "*Employee*" means a person employed under a contract of service;
- (5) "*financial or business affairs*" includes contemplated, as well as past or current, activities;
- (6) "*labour relations matter*" means—
  - (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992[10] (matters which may be the subject of a trade dispute, within the meaning of that Act); or
  - (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;
- (7) "*office-holder*", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority; "*registered*" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

The decision on whether information is confidential or exempt shall be made by the Monitoring Officer in consultation with the Head of Legal Services.

#### **11 Exclusion of Access by the Public to Reports**

The Council may exclude access by the public to reports which in the opinion of the Monitoring Officer relate to items during which, in accordance with Rule 18, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" and will include reference to the category and description of the information likely to be disclosed.

#### **12 Application of Rules to the Executive**

Rules 13 to 23 below apply to the Executive and to any Committees of the Executive. If the Executive or one of its Committees meet to take a key decision then it must also comply with Rules 13 to 15 unless Rule 16 (general exception) or Rule 17 (special

urgency) apply. A *key* decision is as defined in this Constitution.

If the Executive or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Executive work plan by which it is to be decided, then it must also comply with Rules 13 to 15 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

### **13. Procedure before taking Key Decisions**

Subject to Rule 16 (general exception) and Rule 14.17 (special urgency), a key decision may not be taken unless:

- (a) a notice has been published in connection with the matter in question which complies with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
- (b) at least 28 clear days have elapsed since the publication of the notice referred to in the preceding paragraph; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **14. Notice of Future Executive Decisions (Executive Work Programme)**

#### **(a) Period of Notice**

Notice of future Executive decisions will be published in accordance with this Rule 0 above. In addition to key decisions the notice will, wherever possible, include details of other decisions which the Executive is expected to take, and will aim to cover a period of approximately two to three months.

The Notice will be available at the Council Offices, Woodgreen, Witney, and on the Council's [website](#)

#### **(b) Contents of Notice**

The Notice of Future Decisions will contain matters which are believed will be the subject of a key decision to be taken by the Executive, a Committee of the Executive, individual members of the Executive, officers, or under joint arrangements in the course of the discharge of a Executive function during the period covered. It will provide the following:

- (i) A statement that a key decision is to be made on behalf of the council;
- (ii) the matter in respect of which a decision is to be made;
- (iii) where the decision maker is an individual, their name and title, if any and where the decision maker is a decision making body, its name and a list of its members;
- (iv) the date on which, or the period within which, the decision is to be made;
- (v) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the decision is to be made;
- (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (vii) that other documents relevant to those matters may be submitted to the

- decision maker; and
- (viii) the procedure for requesting details of those documents (if any) as they become available .

**(c) Publication of Notice of Future Decisions**

The Notice referred to above must be published at least 28 clear days before the date of the first specified key decision.

The Notice will include particulars of any matter where the public may be excluded from the meeting at which the matter is to be discussed, or where documents will not be available to the public, but will not contain any confidential or exempt information or particulars of the advice of a political adviser or assistant.

**15 Decisions at Private Meetings**

Where a decision is likely to be taken with the public excluded from the meeting, the Council will make available at its offices a Notice of its intention to hold the meeting in private and publish on its website Notice of that intention at least 28 clear days in advance of the date of the private meeting where the decision will be taken. This Notice will be incorporated into the Notice referred to in paragraphs 00 above and 0 above, and will include a statement of the reasons for the decision to be taken in private.

At least five clear working days before the meeting, a further Notice of the intention to make the decision in private must be published. This must include a statement of the reasons for the meeting to be held in private; details of any representations received by the decision-making body about why the decision should be taken in public; and a statement of the response to any such representations. This Notice will be incorporated into the agenda for the meeting in question.

Where the date by which a meeting must be held makes the above procedure impracticable, the meeting may only be held in private where agreement has been obtained from the chair of the Overview and Scrutiny Committee or, if there is no such person, or the chair is unable to act, the chair of the council, or, if there is no chair of the committee or the council, the vice chair of the council that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained a Notice must be made available at the Council Offices and on its website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

**16 General Exception – Key Decisions**

Where the publication of the intention to make a key decision as set out above is impracticable, subject to Rule 17 (special urgency), the decision may still be taken if:

- (a) The Chief Executive has informed the Chair of the Overview and Scrutiny Committee or, if there is no such person, each member of that Committee by notice in writing, of the matter about which the decision is to be made;
- (b) A copy of the notice referred to in (a) above has been made available for inspection by the public at the Council Offices, Woodgreen, Witney and on the Council's website; and
- (c) After five clear days have elapsed since the Chief Executive complied with (b)

above.

The Chief Executive must, having carried out the above step, make available for inspection by the public at the Council Offices, Woodgreen, Witney and on the Council's website, a notice setting out the reasons why compliance with 0(b) above was impracticable.

#### **17 Special Urgency – Key Decisions**

If the date by which a key decision must be made makes compliance with Rule 16 above impracticable, the decision may only be made with the agreement of the chair of the Overview and Scrutiny Committee or, if there is no such person, or the chair is unable to act, the chair of the council, or, if there is no chair of the committee or the council, the vice chair of the council that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained a Notice must be made available at the Council Offices and on its website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

#### **18 Report to Council**

##### **(a) When an Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as being a key decision, the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by the Chair. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

##### **(b) Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out the decision and the reasons for the decision, the decision maker by which the decision was made, and if the Executive is of the opinion that the decision was not a key decision, the reasons for that opinion.

##### **(c) Reports on special urgency key decisions**

The leader will submit at least one report annually to the council, which contains details of each Executive decision taken since the submission of the last report which was agreed as urgent under the procedure in Rule 17 above. The report will include the particulars of each such decision made, and a summary of the matters in respect of which each decision was made.

#### **19 Record of Decisions**

After any meeting of the Executive or any Committee of the Executive, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The

record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

**20 Executive Meetings to be held in Public**

With the exception of matters falling within Rule 0 above, all meetings of the Executive will be held in public.

**21 Notice of Meeting of the Executive**

Members of the Executive or a Committee of the Executive will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

The agenda and reports for any such meeting will also be circulated to all members of the Council, unless:

- (a) any individual member indicates that they do not wish to receive specified papers; or
- (b) in exceptional circumstances, taking into account the provisions of Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader or the decision taker, on the advice of at least two of the statutory officers agrees that the content of a report is of such a sensitive nature that it should be circulated only to members of the relevant decision making body; or
- (c) a report contains information or advice which the Council is unable to supply to members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

**22 Member attendance at meetings of the Executive**

Members of the Council who are not members of the Executive may attend meetings of the Executive and any Committees of the Executive. At the discretion of the Executive they may join in debates but may not vote.

**23 Decisions by Individual Members of the Executive**

**a. Reports intended to be taken into account**

Where an individual member of the Executive receives a report which they intend to take into account in making any decision, they will not make the decision until at least five clear days after receipt of that report.

**b. Provision of copies of reports to the Overview and Scrutiny Committee**

Any report prepared for an individual decision maker will be circulated to all members of the Council, subject to the exceptions referred to in Rule 21 above. The report will also be available to the public in accordance with these Rules.

**c. Record of individual decision**

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

or advice from a political assistant.

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# Contract Rules

**Amended:** 13 September 2023 –  
Executive Minute Number 85: Revisions  
following the approval of the updated  
Procurement & Contract Management  
Strategy and replacement of Cabinet  
with Executive

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**CONTRACT RULES**

**SECTION I: GENERAL COMPLIANCE AND SCOPE**

**I. COMPLIANCE**

- I.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:
  - I.1.1 All relevant statutory provisions including codes and statutory guidance e.g. Local Government Transparency Code
  - I.1.2 The relevant Public Contract Regulations and any amendments to those Regulations from time to time and, whilst they continue to have a direct effect in UK law, any public procurement directives implemented by the UK Regulations;
  - I.1.3 The Authority’s Constitution including these Contract Rules, the Authority’s Financial Rules and Scheme of Delegation;
  - I.1.4 The Authority’s strategic objectives, Procurement and Contract Management Strategy Commissioning and Procurement Guide and Climate Emergency policies.
  
- I.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods and services:
  - I.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;
  - I.2.2 Are appropriate for the purpose for which they are obtained;
  - I.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 goods
- 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 (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, 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 and Contract Management Strategy.

- 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 Procurement 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 Authority'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.

4.2.12 ensuring all new or existing contracts above £100,000 are included on the Forward Plan for discussion at the Commissioning and Procurement Board.

4.3 Where any procurement that 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 Executive for decision, unless otherwise stated elsewhere in the Authority's Constitution

## CONTRACT VALUES

5.1 Where the total value for a purchase is within the values in the first column below, unless the 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
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<p><b>£10,000 and below</b></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 the obtaining of two written Quotes, where possible and via the Procurement 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>
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<p><b>Above £10,000 to £25,000</b></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 be 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 <b>and</b> either</p> <ul style="list-style-type: none"><li>• a waiver is approved in accordance with Rule 6.1 or</li><li>• approval is given by the Section 151 Officer.</li></ul> <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>
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<p><b>Above £25,000 to Threshold</b></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 public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to the 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 Authority’s 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><b>Threshold and Above</b></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"> <li>• Using the UK e-notification service, Find a Tender (FTS) e-notification service as required by law.</li> <li>• On Contract Finder within the time limit specified in the Regulations</li> </ul> <p>The Procurement Adviser, in consultation with the Authority’s 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"> <li>• Open Procedure – a one stage tender process where anyone can submit a tender</li> <li>• Restricted Procedure – a two-stage process where a Selection Questionnaire is used to shortlist Candidates who are then invited to submit a tender.</li> </ul> <p>The following procedures can only be used in certain circumstances.</p> <ul style="list-style-type: none"> <li>• <b>Innovation Partnership</b> - This may be used when the Authority is seeking innovative ideas where solutions are not already available in 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</li> </ul> <p>A structured partnership will be established for the development of an innovative product, service or works and the subsequent of the resulting supplies, service or works, provided that they correspond to the agreed performance levels and costs.</p>
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	<ul style="list-style-type: none"><li>• <b>Competitive Dialogue</b> - This can be used where either of the following apply:<ol style="list-style-type: none"><li>i. The need of the Authority cannot be met without adaption of readily available solutions;</li><li>ii. They include design or innovative solutions;</li><li>iii. Specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them;</li><li>iv. The technical specifications cannot be established with sufficient precision with reference to a standard, Technical Assessment, common technical specification or technical reference;</li><li>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 failed procedure.</li></ol></li><li>• <b>Competitive Procedure with Negotiation</b></li></ul> <p>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.</p> <p>A formal written contract prepared or approved by the Authority's Solicitor must be used.</p>
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<p><b>Light Touch Regime</b></p>	<p>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;</p> <ul style="list-style-type: none"> <li>• Health, social and related services</li> <li>• Administrative social, educational, healthcare and cultural services</li> <li>• Compulsory social security services</li> <li>• Benefit Services</li> <li>• Other community, social and personal services including services furnished by trade unions, political organisations, youth association and other membership organisation services</li> <li>• Legal Services</li> <li>• Other administrative services and government services</li> <li>• Prison related services, public security and rescue services</li> <li>• Investigation and security services</li> <li>• International services</li> <li>• Postal Services</li> <li>• Miscellaneous services listed in schedule 3 of the Public Contracts Regulations 2015</li> </ul> <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 Authority’s Solicitor must be used.</p>
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<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/approved by the Authority’s Solicitor must be utilised</p>
<p>Disposal of assets (other than land)</p>	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority’s obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority’s Finance Rules.</p>
<p>Disposal of Land</p>	<p>These contract rules 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. regeneration projects)</p>

**WAIVERS**

5.2 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:-

5.2.1 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 goods or materials 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 s151 Officer and the Authority's Solicitor considers that the services to be provided or the work to be executed or the goods or materials to be purchased are urgent; (subject to the action being reported to the next Executive 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 consultation with the Section 151 Officer and the Authority's Solicitor 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 goods 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 prescribed relevant Threshold.***

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

- 6.2.1 Executive for contracts above £100,000.00 or the Head of Paid Service in consultation with the Leader of the Authority, the Section 151 Officer and the Authority's Solicitor if the matter requires an urgent decision and a meeting of the Executive cannot be called; or

- 6.2.2 The Budget Holder (if authority has been delegated to them in accordance with the Constitution) , in consultation with the Section 151 Officer and the Authority's Solicitor if the contract does not exceed £100,000.00
- 6.3 A record of the decision and the reasons for it shall be kept and the wavier itself shall be sent to Procurement.

### SECTION 3: QUOTATION AND TENDERING PROCESS

#### 7. ADVERTISING (above £25,000)

- 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 Procurement portal free of charge when the advert is placed.
- 7.3 Opportunities with a value over the relevant Threshold must also be advertised on the Find a Tender website by submitting a Contract Notice using the Authority's Procurement portal.

#### 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 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 contracts above the lower Threshold (supply and services Level) a pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use PAS91 for works or works related contracts or such other required templates 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 for works contract form, PAS91 or such other templates as required by law or by the Government.

Any deviations from 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 Authority's Solicitor.

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

### **9. ELECTRONIC TENDERING**

- 9.1 On the 18<sup>th</sup> 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 used 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 through the Portal unless otherwise permitted by these Contract Rules

or by the Procurement Advisor and the Section 151 Officer. For quotes under £10,000, the Portal should be used where appropriate 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:
- 10.3.1 tenders can be submitted for one, for several or for all of the lots; or
  - 10.3.2 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 tenderer, 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.

## II.

### SUBMISSION AND OPENING OF TENDERS AND QUOTES

- 11.1 Tenders and Quotes shall be submitted in accordance with requirements set out in 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, where appropriate, 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 opening of the Tenders and Quotes in accordance with instructions given by the Procurement Adviser.
- 11.3 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Monitoring Officer is satisfied that there is sufficient evidence that either;
- the Tender or quote was dispatched 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

## ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND 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 of the Tender or Quote reveals arithmetical errors or discrepancies, which 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 tenderers 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.

All other post-tender clarifications shall:

- 12.2.1 only be undertaken following consultation with the Procurement Adviser and the Authority's Solicitor; and
- 12.2.2 not disclose commercially sensitive information supplied by other Candidates

## EVALUATION

- 12.3 Tenders and Quotes shall be evaluated in accordance with the relevant regulations 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, which 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 Quotation 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 Contractors submitting a proposal should be involved in any way in influencing the decision as to which Contractor is to be awarded the Contract. Each officer involved in the evaluation must complete a declaration of interest form 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 or Request for Quote and include confirmation 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 Tender 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 the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.

- 14.5 For above Threshold Contracts, a Contract Award Notice must be published in the UK e-notification service, Find a Tender Service (FTS), 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 Authority's Solicitor immediately following receipt of a challenge.

For contracts with a value of £25,000 and above, the purchase order shall not issued until the formal written contract has been completed.

15. **DEBRIEFING**

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

**SECTION 4 – CONTRACT FORMALITIES**

16. **EXECUTION OF CONTRACTS**

- 16.1 All contracts not exceeding £25,000 shall be signed by the relevant Budget Holder, unless the Authority's Solicitor requires the contract to be sealed.
- 16.2 All contracts exceeding £25,000 but not exceeding £50,000 shall be signed by the Authority's Solicitor unless the Authority's Solicitor requires that the contract be sealed.
- 16.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Authority's Solicitor and the common seal affixed to the contract unless the Authority's Solicitor considers it more expedient to sign the contract.
- 16.4 Electronic signatures may only be permitted as a method of executing contracts with prior consent of the Section 151 officer having first obtained advice from the Authority's 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 All contracts with a value of £25,000 and above shall be kept by the Authority's Solicitor and a copy shall be sent to the Procurement Adviser.
- 17.3 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 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the Authority's 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 Authority's Solicitor.
- 18.3 Bonds shall be a minimum of 10% of the contract value.

**19. EMBEDDED LEASES & EMBEDDED DERIVATIVES**

- 19.1 Prior to the award of a contract the Authorised Officer must notify the S151 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 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 new procurement exercise.
- 20.2 The Framework Agreement and DPS may include within its terms a requirement for a mini competitive exercise between some or all of those Suppliers who are parties to the Framework Agreements and can provide the goods/services being tendered. Other Framework Agreements and DPS may allow for a direct award or the choice of either direct award or mini competition. Any Call-Off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement or DPS.
- 20.3 The approval of the Procurement Adviser or Authority's 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 Authority's 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 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 without having to carry out a further Procurement exercise. 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 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 up to the 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 the Framework Agreement or DPS. This procurement will need to be advertised in accordance with these Contract Rules. The

Contract Value is to be determined by the anticipated level of spend per Framework Agreement or DPS.

**PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS**

- 20.8 The call off of a contract under a framework with a value of £25,000.00 or over 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.

**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 Head of Paid Service 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.

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#### **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 Authority 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 Authority 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.
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**DEFINITIONS**

<b>Advertised</b>	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”
<b>Authorised Officer</b>	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
<b>Authority’s Solicitor</b>	Means the senior legal adviser for the Authority, which may provide shared service representation.
<b>Awarding Officer</b>	The officer with the delegated authority to award the contract
<b>Best Value for Money</b>	The best solution for the Authority taking into account price, quality and deliverability.
<b>Bond</b>	An insurance policy: if the Contractor 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 Contractor’s failure.
<b>Budget holder</b>	The officer responsible for the budget for the relevant procurement
<b>Candidate</b>	Any person who asks or is invited to submit a Quote or Tender.
<b>Call-Off Contract</b>	Means a contract awarded to a supplier under a Framework Agreement
<b>Concession Contracts</b>	an agreement where Suppliers are given the right to exploit works or services provided for their own gain.
<b>Consultant</b>	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.
<b>Contracting Authorities</b>	Bodies, which are subject to the Procurement Contract Regulations

<b>Draw down contract</b>	A contract with a single supplier where goods, services or works are requested on an ad hoc basis
<b>Dynamic Purchasing System (DPS)</b>	A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can join at any time
<b>Find a Tender</b>	Where notices for all above Threshold procurements opportunities and contract awards must be placed
<b>Framework Agreement</b>	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.
<b>Head of Paid Service</b>	Means the officer designated as head of paid for the Authority under section 4 of the Local Government and Housing Act 1989
<b>Invitation to Tender (ITT)</b>	Invitation to tender documents in the form required by these Contract Rules.
<b>Most Economically Advantageous Tender</b>	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> <li>• Price (i.e. the lowest price)</li> <li>• Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing)</li> <li>• Best price/quality ratio</li> </ul>
<b>Parent Company Guarantee</b>	A contract, which 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.
<b>Procurement Adviser</b>	The procurement officer for the Authority
<b>Procurement Contract Regulations (PCR15)</b>	The UK regulations implementing the public procurement directives
<b>Quote</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
<b>Regulation 84 Report</b>	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015

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<b>Substantial</b>	<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"><li>(a) the change renders the contract or the framework agreement materially different in character from the one initially concluded;</li><li>(b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have—<ul style="list-style-type: none"><li>(i) allowed for the admission of other candidates than those initially selected,</li><li>(ii) allowed for the acceptance of a tender other than that originally accepted, or,</li></ul></li></ul> <hr/> <ul style="list-style-type: none"><li>(iii) attracted additional participants in the procurement procedure;</li><li>(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;</li><li>(d) the modification extends the scope of the contract or framework agreement considerably;</li><li>(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).</li></ul>
<b>Supplier</b>	<p>A person or body of persons providing, or seeking to provide supplies, services or works to the Authority.</p>
<b>Tender</b>	<p>A Candidate’s proposal submitted in response to an Invitation to Tender.</p>
<b>Threshold</b>	<p>Means the values set out in the Public Contract Regulations which determine if a procurement needs to be carried in accordance with the Public Contract Regulations</p>

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**5I: Financial Procedure Rules**

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**WEST OXFORDSHIRE DISTRICT COUNCIL  
Financial Rules**

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These financial rules relate to each of the Local Authorities forming the GO Shared Services, being Cotswold District Council, Cheltenham Borough Council, Forest of Dean District Council and West Oxfordshire District Council. This Shared Service provides shared financial, payroll, procurement and human resources services across the partnering authorities. Each council’s governance structure is laid down in their constitutions.

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**1.0 Introduction**

1.0 Financial Rules, together with Contract Procedure Rules and other forms of  
 Part 5I: Financial Procedure Rules

1 July 2015



guidance on procedure and conduct, provide the framework for managing the council's financial affairs, ensuring high integrity and accountability. They apply to every Member and Officer of the council and anyone acting on behalf of the council.

1.1 To conduct its business efficiently the council needs to ensure that there are sound financial management policies in place and that these are strictly adhered to. Part of this process is the establishment of Financial Rules that set out the financial policies of the councils forming the GO Shared Services.

1.2 These Financial Rules are made pursuant of the Local Government Act 1972, Section 151 the Accounts and Audit Regulations 2003 (as amended) and all other enabling powers.

1.3 The Financial Rules provide clarity over the accountabilities of individuals, ensures that the council uses best practice when dealing with financial matters and that council resources are used wisely.

1.4 For the purpose of these Financial Rules, the description "Council" shall refer to the Full Council, made up of elected members, and the term "council" shall relate to the local authority.

1.5 The financial limits approved as part of these Financial Rules are summarised in Appendix A1 – Schedule of Financial Limits.

## **2.0 Status of Financial Rules**

1.1 These Financial Rules relate to each of the Local Authorities forming the GO Shared Services, being Cotswold District Council, Cheltenham Borough Council, Forest of Dean District Council and West Oxfordshire District Council. This service provides shared financial, payroll, procurement and human resources services across the partnering authorities.

1.2 The Financial Rules shall be complied with by all Officers and Members from each of the above Local Authorities. If job titles and roles differ between the councils, the responsibilities defined in the Rules shall be adopted by the most appropriate level of employee within each council's structure, agreed locally.

1.3 The Financial Rules shall apply to all Officers within the GO Shared Services, irrespective of the client council. Full access to financial systems and records shall be given to delegated Officers within the Shared Services in order to facilitate transactional processing and other finance related work, as required.

**1.4** The Financial Rules identify the financial responsibilities of Council, Executive and Executive Members, other Members, the Head of Paid Service (Chief Executive), the Monitoring Officer, the Section 151 Officer, other Directors and Heads of Service and all other employees and agents of the council.

**1.5** Directors and Heads of Service are responsible for ensuring that all staff in their departments are aware of their responsibilities according to the Financial Rules and other internal regulatory documents and comply with them.

**1.6** Executive Members and Senior Officers should maintain a written record where these responsibilities have been delegated to members of staff, including seconded staff.

**1.7** Where responsibilities have been delegated or devolved to other responsible Officers, references to the Members or Senior Officers in the rules should be read as referring to them.

**1.8** All Members and Employees have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money. Nothing included in or omitted from these Financial Rules shall detract from this responsibility.

**1.9** The Section 151 Officer is responsible for maintaining a continuous review of the Financial Rules and advising the Executive of any non-material additions or changes necessary.

**1.10** The Rules will be formally reviewed every 5 years under the control of the Section 151 Officer, in consultation with the Head of GO Shared Services, GO Shared Services Heads of Finance and all those who deal with financial matters within and on behalf of the council. The revised Rules will be reported to each council for approval. In the meantime, if material changes make a review of the Rules necessary, this should be the subject of a report by the Section 151 Officer at each council.

**1.11** Should an instance of non-compliance with these rules be discovered the Section 151 Officer may, after consultation with the Chief Executive, make a report to the Leader, Full Council and/or Executive, as appropriate. Non-compliance with financial rules may also lead to disciplinary action being taken.

## **FINANCIAL RULES**

### **A: FINANCIAL MANAGEMENT**

#### **A1 Introduction**

**A1.1** Financial management covers all financial accountabilities in relation to the running of the council, including the policy framework and budget.

**A1.2** Key processes and controls must be in place to ensure good financial management and help the council conduct affairs in an efficient, effective and economic manner.

**A1.3** Monitoring systems must be in place to review compliance with financial standards and to ensure compliance with legal and corporate requirements for accountability.

#### **A2 Emergencies**

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

#### **A3 Full Council**

**A3.1** The Full Council for each authority is responsible for:

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

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

- The setting of the annual budget, including the allocation of financial resources to different services and projects, proposed reserves, the Council tax base and the setting of the Council tax.
- The preparation of the annual Statement of Accounts, in accordance with the Accounts and Audit Regulations 2011, before 30<sup>th</sup> June following the year end to which they relate. The Section 151 Officer shall sign and date the draft Statements before 30<sup>th</sup> June of each year and the final audited Statements before 30<sup>th</sup> September each year)
- The publishing of the Statement of Accounts, and the external auditor's Certificate, Opinion or Report by 30<sup>th</sup> September each year following the year end to which they relate. The Council has given delegated authority for the Statement to be approved by Audit Committee or other approved Committee as per the council's constitution, and signed by the person presiding at the Committee meeting at which the approval is given.
- The Statement of Accounts are made available for public inspection for 20 days prior to the date set by the external auditor, on or after which the electors rights under Section 15 (2) and 16 (1) of the Audit Commission Act 1988 can be exercised in accordance with the Accounts and Audit Regulations 2003. Also to ensure publish of the Annual Audit and Inspection letter received from the external auditor.
- That public notice is given by advertisement of the conclusion of the audit and that the Statement of Accounts and the external auditor's report are available for inspection.

#### **A4 Executive**

**A4.1** The Executive is responsible for discharging executive functions in accordance with the policy framework and budget and for monitoring compliance with the agreed policy and related executive decisions.

**A4.2** Executive decisions can be delegated to a Committee of the Executive, an individual Executive Member, an Officer, a Joint Committee.

**A4.3** The constitution contains a requirement to ensure that an individual Executive Member consults with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

**A4.4** No member shall ask an employee to incur expenditure for which there is no appropriate provision in the budget, unless in consultation as part of an emergency as detailed in paragraph A2.1.

**A4.5** A record shall be kept of the decision making process.

#### **A5 Overview and Scrutiny Committee(s)**

**A5.1** The council has Overview and Scrutiny Committee(s), responsible for the scrutiny of Executive decisions before or after they have been implemented and for holding the Executive to account. These Committee(s) are also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the council.

**A5.2** Overview and Scrutiny Committee(s) do not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to Executive and the council concerning any matter.

#### **A6 Audit Committee**

**A6.1** The council has an Audit Committee, responsible for ensuring effective internal control and independent assurance mechanisms across all areas of the council.

**A6.2** The Audit Committee is responsible for Internal Audit, External Audit provision, risk management, the signed approval of the Annual Statement of Accounts and the Corporate Governance Framework. This Committee does not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to other Committees and the council concerning any matter.

#### **A7 Standards Committee**

**A7.1** The council has a Standards Committee, established by Full Council, responsible for promoting and maintaining high standards of conduct amongst Members of the council and co-opted Members on its Committees and Sub-Committees. In particular, it is responsible for advising the council on the adoption of the Members' Code of Conduct, and for monitoring the operation of the code.

**A7.2** The Standards Committee does not have authority over any financial activity, other than to support the work of the Committee itself, but can make reports to other Committees and the council concerning any matter.

## **A8 Other Committees**

### **A8.1 Planning and Licensing Committees-**

Planning regulation and licensing are quasi-judicial functions and are exercised through Planning and Licensing Committees within the council, under powers delegated by Full Council. The terms and references of these committees are set out in the Constitution.

### **A8.2 Joint Committees-**

The council can set up Joint Committees with other organisations to oversee the management of activities or facilities. The financial activity of Joint Committees is governed by their terms of reference. The council's procedural and Financial Rules apply to Joint Committees unless there has been specific agreement in line with the constitution to operate under other rules.

## **A9 Head of Paid Service (Chief Executive)**

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

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

## **A10. Monitoring Officer**

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

- Advising, as appropriate, the Council on amendments to the constitution or making such amendments as necessary to take account of decisions of the Council, a Committee, the Executive or Leader and changes of law or fact. He or she shall notify Members, the Head of Paid Service and other Officers as he/she considers appropriate.
- Contributing to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee.
- Receiving and acting on reports made by ethical standards officers and

decisions of the First-Tier Tribunal.

- Conducting investigations into matters referred by an Initial Assessment Sub-Committee or an Appeals Sub-Committee of the Standards Committee, or arranging for such investigations to be made, and making reports or recommendations in respect of them to the Standards Committee.
- After consultation with the Head of Paid Service and the Section 151 Officer, reporting to Council (or Executive in relation to an Executive function), if he or she considers that any proposal, decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### **All Section 151 Officer**

**A11.1** Section 151 of the Local Government Act 1972 requires that every local authority in England and Wales should make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. This Officer must be a member of a specific accounting body.

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

**A11.3** The Section 151 Officer is responsible for:

- The proper administration of the council's financial affairs.
- Determining the council's accounting records, including the form of accounts and supporting accounting records and its accounting control systems, in compliance with the Accounts and Audit regulations 2003.
- Providing financial information and advising on the corporate financial position to the authority as required.
- Ensuring that the Annual Statements of Accounts are prepared in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.
- Signing the Annual Statement of Accounts and certifying that it presents a true and fair view of the financial position of the council at the financial year end.

- Preparing the Medium Term Financial Strategy and the Annual Revenue Budgets and Capital Programmes, within the Policy Framework.
- Reporting to Full Council (under the requirement of Section 25 of the Local Government Act 2003), when it is considering its budget, council tax and housing rents (if applicable) for the new financial year. This 'Section 25' report to include the robustness of estimates and adequacy of reserves.
- Advising the council on the level of reserves needed for meeting estimated future expenditure, in accordance with the statutory requirement for billing authorities to maintain financial reserves (under Sections 32 and 43 of the Local Government Finance Act 1992).
- Treasury Management.
- Advising the Executive or Full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the approved budget.
- Providing regular reports to the Executive on the council's finances and financial performance.
- Monitoring compliance with the Financial Rules and Contract Procedure Rules and reporting, where appropriate, breaches of these rules to the Executive and/or full Council.
- Formally reviewing the Financial and Contract Procedure Rules every 5 years and reporting the revised Rules to the council for approval.
- Maintaining a continuous review of the Financial and Contract Procedure Rules and making any non-material changes to the Rules, as considered necessary, or as part of the formal 5 year review.
- Advising the Executive of any material additions or changes necessary to the Financial Rules.
- Issuing advice and guidance to underpin these rules for Members, employees and agents of the council to follow.

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

- The Section 151 Officer to nominate a properly qualified member of his or her staff to deputise should he or she be unable to perform the Section 151 Officer duties personally.



- The council to provide the Section 151 Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, in order to carry out the Section 151 Officer duties.

## **A12 Directors and Heads of Service**

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

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

- Complying with the Financial and Contract Rules and other internal regulatory documents and ensuring that all employees within his or her service(s) are aware of the existence and content of these Rules.
- Advising Executive Members of the financial implications of all proposals and ensuring that the financial implications have been agreed by the Section 151 Officer.
- Consulting with the Section 151 Officer or delegated Deputy and seeking approval on any matter liable to affect the Council's finances materially (defined as in excess of £10,000), before any commitments are incurred.
- Ensuring that all systems and controls within his or her service(s) are operated to prevent, minimise and detect any opportunity for fraud, theft or other irregularity. He or she should ensure the accountability and control of employees and the security, custody and control of all other resources within the service(s).

## **A13 Employees**

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

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

## **A14 Internal Audit**

**A14.1** The Accounts and Audit Regulations 2011 (England) requires that the council must undertake an adequate and effective internal audit of its accounting records and its system of internal control, in accordance with the proper practices in relation to internal control.

**A14.2** The Section 151 Officer is responsible for ensuring that arrangements are put in place to ensure financial stewardship, probity and compliance with laws and regulations within the council.

**A14.3** The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the council's control environment under the CIPFA Code of Practice for Internal Audit in Local Government 2006.

**A14.4** The council's Internal Audit function is responsible for reviewing and reporting on corporate and departmental internal control arrangements, both financial and operational, as appropriate. This function can be provided by a suitably qualified external body (for example a shared Internal Audit Service).

**A14.5** Internal Audit shall provide positive assurance when financial controls are effective and recommendations for improvement where they are not. They shall advise all levels of management on the operation of financial and operational controls to help prevent things going wrong.

**A14.6** Internal Audit are responsible for the investigation and reporting of all suspected irregularities, at the request of the Section 151 Officer, Monitoring Officer, the Chief Executive or a Director.

## **A15 External Audit**

**A15.1** The council's External Auditor is responsible for considering whether the council has proper arrangements in place for:

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

## **B: FINANCIAL PLANNING, BUDGET PREPARATION AND BUDGET MONITORING**

### **B1 Introduction**

**B1.1** Full Council is responsible for agreeing the council's policy framework and budget, which will be proposed by the Executive. In terms of financial planning, the key elements are the corporate plan, the annual revenue budget, the capital programme and the Medium Term Financial Strategy.

**B1.2** The policy framework comprises a number of statutory plans and strategies that are listed in the council's Constitution.

**B1.3** The budget is the financial expression of the council's plans and policies. It reflects Council, Executive and Committee priorities and gives authority to Budget Holders to incur expenditure or collect income. It should take due account of the risks and opportunities facing the council.

**B1.4** The revenue budget must be constructed to ensure that resource allocation properly reflects the service plans and priorities of the council. Budgets are needed so that the council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the council to budget for a deficit.

**B1.5** Medium term financial planning covering a minimum period of 4 years, which incorporates both revenue and capital plans, involves a planning cycle in which Members, the Chief Executive, Directors and Budget Holders plan for significant events and changes to spending and income. This allows for measured and appropriate action to be taken each year when setting detailed budgets and avoids the need for urgent or undesirable action.

### **B2 Full Council**

**B2.1** Full Council is responsible for the approval and adoption of its annual Budget in February of each year prior to the start of the next financial year.

**B2.2** This includes:

- The allocation of financial resources to services and projects.
- The control of capital expenditure.
- The approval of the Medium Term Financial Strategy.
- The control of the council's borrowing requirement.
- Setting the rate of Council Tax.
- Setting the Council Tax base (unless delegated under the constitution)

**B2.3** Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework, unless otherwise delegated under the constitution.

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

### **B3 Executive**

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

**B3.2** The Executive is responsible for:

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

### **B4 Section 151 Officer**

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

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

- Determining the format and the timetable for the budget, to be agreed by Executive in the autumn prior to the start of the next financial year.
- Supplying the financial information that needs to be included in policies, strategies and performance plans in accordance with statutory requirements and agreed timetables.
- Providing guidance to Officers on budget preparation.

- Advising Full Council on Executive budget proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972. This advice to be presented to Full Council at its budget setting meeting in February, as part of his or her S25 Report.
- Ensuring that expenditure is committed only against an approved budget and that all Officers responsible for committing expenditure comply with the Financial Rules and other relevant guidance.
- Establishing a framework of budgetary management and control, ensuring that financial performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.
- The preparation of Budget Monitoring reports, to be reported to Executive, reflecting significant variations to income and expenditure budgets (in excess of £10,000) and the overall financial position, on a minimum quarterly basis.
- Ensuring that appropriate and timely information is provided on receipts and payments, in order to allow budgets to be monitored effectively.
- Ensuring that systems are in place to measure activity and collect accurate financial information for use in local financial performance indicators.
- Complying with all legal requirements and CIPFA's Code of Practice on Local Authority Accounting and CIPFA's Service Reporting Code of Practice for Local Authorities.

## **B5 Directors and Heads of Service**

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

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

- Contributing to the development of the Policy Framework, budgets and performance plans within their areas of responsibility. Budget estimates should be prepared in line with guidance issued by the Section 151 Officer and have regard to known spending patterns, legal requirements and agreed corporate and/or service plans.
- Contributing to the development of corporate and service targets, objectives and performance information in their areas of responsibility.
- Developing their services' performance plans in line with statutory requirements and corporate guidance.

- Achieving the targets, objectives and levels of performance as set out in the corporate plans (including achievement of budgetary targets within their areas of responsibility).
- Complying with the accounting guidance provided by the Section 151 Officer and ensuring that income and expenditure is properly recorded and accounted for in their service areas. Income and expenditure should not be miscoded as a means of applying unauthorised virement.
- Monitoring income and expenditure within their approved budgets and reporting to the Section 151 Officer and Executive Member significant variations to budget (in excess of £10,000). He or she should also take the necessary action required to improve the financial position.

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

## **B6 Budget Holders and Other Employees**

**B6.1** Each delegated budget holder and employee shall be responsible for the sound financial management and budgetary control of their delegated area. This will include the monitoring and control of all financial and finance related systems and the monitoring and control of access to computerised financial records. Significant variations to budgets should be reported to their Director or Head of Service.

## **B7 Preparation of Capital Programme**

**B7.1** Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure may include loans and grants which are used by others for capital purposes.

**B7.2** The Section 151 Officer is responsible for defining whether expenditure is classed as capital or revenue expenditure, having regard to Government regulations and accounting requirements.

**B7.3** The council can set a “de minimis” level for treating capital expenditure as revenue, to avoid unnecessary work in identifying potential capital spend. The current “de minimis” level is set at £10,000. Expenditure falling within the definition of capital expenditure will be charged to revenue if it is for £10,000 or less.

**B7.4** The Section 151 Officer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by Executive, before submission to Full Council for approval as part of the annual Budget setting process.

**B7.5** Each Director or Head of Service will prepare a business case for each new item to be included in the capital programme, including details of the scheme, the capital budget requirement, a project plan, associated revenue expenditure and any other details requested by the Section 151 Officer.

**B7.6** No capital scheme shall commence which will increase the revenue expenditure of the council until such revenue provision has been approved.

**B7.7** The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

**B7.8** New capital schemes in year should be approved as follows:

- Amounts not exceeding £100,000 – by Executive
- Amounts in excess of £100,000 – by Full Council.

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

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

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

## **B8 Resource Allocation**

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

**B8.2** The Section 151 Officer is responsible for:

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

**B9 Increases in Estimates**

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

**B10 Carry Forward of Budget**

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

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

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

**B11 Maintenance of Reserves**

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



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

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

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

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

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

## **C: SCHEME OF VIREMENT**

### **C1 Introduction**

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

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

### **C2 Full Council**

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

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

### **C3 Budget Variations within a Service**

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

### **C4 Virement Rules / Limits**

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

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

C4.2.1 Revenue budgets:

Amounts up to £10,000 –

Approval by relevant Director(s) or Head of Service(s). The Section 151 Officer should be informed of this virement.

Amounts over £10,000 but not exceeding £25,000 –

Approval by relevant Director(s) or Head of Service(s) and the Section 151 Officer. Relevant Executive Member(s) to be informed of this virement.

Amounts over £25,000 but not exceeding £50,000 –

Approval by Executive Member(s) in consultation with Section 151 Officer.

Amounts over £50,000 but not in excess of £100,000 –

Approval of Executive.

Amounts in excess of £100,000 –

Approval of Full Council, or as delegated in the constitution.

C4.2.2 Capital Schemes:

Amounts up to £50,000 –

Approval of relevant Director(s) or Head of Service(s), with the agreement of the Section 151 Officer. Executive Member(s) to be informed.

Amounts over £50,000 but not exceeding £100,000 –

Approval by Executive

Amounts in excess of £100,000 –

Approval of Full Council, or as delegated in the constitution.

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

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

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

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

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

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

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

## **D: RISK MANAGEMENT AND INSURANCE**

### **D1 Introduction**

**D1.1** Risk is the chance of something going wrong which may result in loss, damage, injury, failure to achieve objectives or missed opportunity caused by an unwanted, uncertain or lack of action or event. It includes corporate and strategic risks. All organisations, whether they are in the private or public sectors, face risks to credibility, people, property and continued operations.

**D1.2** Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the organisation's opportunities and assets and to ensure its continued financial and organisational well-being. Risk management is, therefore, an integral part of good business practice.

**D1.3** It is essential that robust systems are developed and maintained for identifying and evaluating all significant opportunities and risks to the council as an integral part of management. This should include the active participation of all those associated with the planning and delivery of services.

**D1.4** The Council's Risk Management Policy and Strategy sets out criteria for risk assessment and guidance on how it should be managed.

### **D2 Executive**

**D2.1** The Executive is responsible for:

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

### **D3 Audit Committee**

**D3.1** The Audit Committee is responsible for:

- Reviewing the effectiveness of risk management processes.
- Ensuring that risk management procedures are satisfactorily carried out.
- Ongoing monitoring and review of the risk management strategy.

#### **D4 Section 151 Officer**

**D4.1** The Section 151 Officer is responsible for:

- Preparing the Risk Management Policy & Strategy for Executive.
- Promoting the culture of Risk Management throughout the council.
- Advising the Executive on appropriate insurance cover for known insurance risks and assets owned and/or used in connection with the council's activities.
- The negotiation, and where appropriate, settlement, of insurance claims, in consultation with the Monitoring Officer and other Employees as appropriate.
- Ensuring that all appropriate Employees are included in a suitable fidelity guarantee insurance.
- Reviewing annually, or at any such other period considered necessary, all insurances, in consultation with Directors and other Employees as appropriate.

#### **D5 Directors and Heads of Service:**

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

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

- Actively managing opportunities and risk in their area of responsibility.
- Providing prompt notification to the Section 151 Officer for all new risks, properties, services or vehicles which require to be insured and of any alterations affecting existing insurances. This should include any areas of responsibility undertaken in respect of an external organisation, whether or not linked to the council's activities.
- Providing notification to the Section 151 Officer in writing of any loss, liability or damage or any event likely to lead to a claim. Further notification should be given to the Section 151 Officer immediately on receipt of any insurance claim.

- Consulting with the Section 151 Officer and the Monitoring Officer concerning the terms of any indemnity which the council is requested to give.
- Ensuring that all employees:-
  - are aware of their responsibilities for risk management and insurance.
  - receive adequate support and training to carry out their responsibilities.
  - comply with the council's standards of financial management.
  - are personally protected from risk.

## **D6 Budget Holders and Other Employees**

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

- Identifying opportunities and risks in their service areas.
- Assessing the likelihood of their occurrence and evaluating the possible impact. This involves arranging them in order of priority, recording the risks and judging the potential financial cost, lost time, inconvenience or upheaval, disruption to service, bad publicity or loss of service quality.
- Taking steps to minimise potential losses. Effective action will represent a judgement between the likely risk and the cost or effort required to safeguard against it.
- Notifying the Section 151 Officer promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurance.
- Notifying the Section 151 Officer immediately of any loss, liability or damage which may lead to a claim against the council, together with any information or explanation required by the Section 151 Officer or the council's insurers.
- Recording any incident which may result in a loss.
- Consulting the Section 151 Officer and the Monitoring Officer on the terms of any indemnities which the council is required to give.
- Ensuring that the council's employees, or anyone covered by the council's insurance, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of an insurance claim.

## **E: INTERNAL CONTROLS AND AUDIT**

### **E1 Introduction**

**E1.1** Internal control refers to the systems of control devised by management to help ensure the council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the council's assets and interests are safeguarded.

**E1.2** The council faces a wide range of financial, administrative and commercial risks, both from internal and external factors. Internal controls are necessary to help manage these risks and to monitor progress towards its strategic objectives.

### **E2 Internal Audit**

**E2.1** The Accounts and Audit Regulations 2011 require that the council must undertake an adequate and effective internal audit of its accounting records and of its system of internal control, in accordance with proper practices in relation to internal control.

**E2.2** The internal audit function should operate in accordance with the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, the Chartered Institute of Internal Auditors (UK and Ireland) Standards for the Professional Practice of Internal Auditing, and with any other statutory obligations and regulations.

**E2.3** Internal Audit shall provide an independent, objective, assurance and consulting activity for the review of the council's system of internal control.

**E2.4** The Head of Internal Audit is responsible for providing a written report to those charged with governance, which includes an opinion on the adequacy and effectiveness of the council's control environment under the CIPFA Code of Practice for Internal Audit in Local Government 2006.

**E2.5** The Head of Internal Audit has the right to meet the Chair of the Audit Committee in private.

**E2.6** Internal Audit shall have direct access to the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, all levels of Management and Elected Members.

**E2.7** Internal Audit shall have full and complete access to all information, records, facilities and personnel relevant to the performance of an audit review.



### **E3 External Audit and Inspection**

**E3.1** The Audit Commission is responsible for appointing external auditors to each local authority in England and Wales. The basic duties of the external auditors are defined in the Audit Commission Act 1998 and the Local Government Act 1999.

**E3.2** The external auditor's main objectives are to review and report on the financial aspects of the council's corporate governance arrangements, the financial statements and the arrangements to manage its performance.

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

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

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

### **E4 Audit Committee**

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

Audit Committee is responsible for:

- Reviewing internal and external reports and assessments in respect of corporate governance.
- Considering the Head of Internal Audit's annual report and opinion and annual internal audit plan and the level of assurance it gives over the council's corporate governance arrangements.
- Monitoring the operational Internal Audit plan and the audit planning process; ensuring that internal audit work is planned with due regard to risk, materiality and supports the council's corporate aims and priorities.
- Consulting with the Audit Commission on the appointment of the council's external auditor.

- Consideration and review of the external audit annual Report to those charged with governance (ISA 260) and all associated reports and other documents.
- Reviewing all matters relating to external audit, including audit and inspection planning, action points and reports
- Monitoring and review of actions required arising out of external and internal audit recommendations.
- Ensuring effective liaison between external and internal audit and any other inspection agency.
- Reviewing and signing approval of the audited annual statement of accounts and annual governance statement, including the statement of the system of internal financial control by 30<sup>th</sup> September of each year following the financial year end.

## **E5 Section 151 Officer**

### **E.5.1** The Section 151 Officer is responsible for:

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

## **E6 Directors and Heads of Service**

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

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

## **E7 Preventing Fraud and Corruption**

**E7.1** The council has an Anti-Fraud and Corruption Policy / Strategy and maintains a culture which will not tolerate fraud or corruption. The council's expectation of propriety and accountability is that Members and all Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

**E7.2** The council also expects that individuals and organisations (e.g. service providers, contractors and suppliers) that it comes in contact with, will act towards the council with integrity and without thoughts or actions involving fraud and corruption.

**E7.3** The Section 151 Officer is responsible for the development and maintenance of an Anti-Fraud, Corruption and Whistle-blowing Policy.

**E7.4** The Monitoring Officer is responsible for ensuring that all legislation, including the Public Interest Disclosure Act 1988, the Bribery Act 2010 and the Fraud Act 2006, is adhered to.

**E7.5** Each Director and Head of Service is responsible for ensuring that the systems operated within his or her control seek to prevent or minimise the opportunity for fraud, corruption or irregularity to arise. And that all staff are aware of and comply with the council's anti-fraud and whistle blowing policies.

**E7.6** Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the council, or any suspected irregularity in the exercise of the functions of the council, the Director or Head of Service has a duty to immediately notify the Section 151 Officer and the Monitoring Officer, who shall take such steps as they consider necessary by way of investigation and report.

**E7.7** All Members and Employees must be aware of the maintenance of the Register of Interests, which should be updated annually or more frequently if other changes occur. Any offer of hospitality or gifts must be recorded, whether accepted or refused.

## **E8 Ex-Gratia / Maladministration Payments**

**E8.1** A payment is sometimes made to compensate someone for loss or damage incurred through no fault of the council. Most usually, this is to an employee who has suffered loss or damage in the course of their duties but can be to a member of the public for a minor loss within the influence of the council (such as thefts from secured lockers at Leisure Centres) This is funded through the council's insurance arrangements.

**E8.2** Compensation payments under the local complaints procedure up to £5,000 shall only be made following an investigation by the Section 151 Officer and a Director or Head of Service and/or the Monitoring Officer, and with the approval of at least two of those employees.

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

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

## **F: ASSETS**

### **F1 Introduction**

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

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

### **F2 Full Council**

**F2.1** Full Council is responsible for deciding the extent of the Property Portfolio and for agreeing acquisitions and disposals. Approval is delegated to Executive for acquisitions not exceeding £500,000 (for Social Housing) and not exceeding £250,000 (for other land or property), unless otherwise delegated in the constitution.

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

### **F3 Executive**

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

### **F4 Chief Executive (or other delegated Officer)**

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

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

## **F5 Director or Head of Property Services (or other delegated Officer) F5.1 The**

Director or Head of Property Services is responsible for:

- Maintaining a terrier / asset register of all properties and assets owned by the council, in a form approved by the Section 151 Officer. This shall record the purpose for which the property is held, its location, its extent and plan reference, purchase details, particulars of nature of interests and rents payable and particulars of tenancies granted.
- Advising Members, the Section 151 Officer, Executive, Council and other Officers on property-related issues.
- Processing all authorised acquisitions and disposals of land and property.
- The maintenance of council-owned property including open-spaces. Such maintenance work to be carried out within the terms of contracts for responsive maintenance to Council properties.
- in the case of non-housing capital building contracts, consulting with the relevant Executive Member and the Section 151 Officer, where the contingency sum in the contract is likely to be exceeded. Financial Rules in respect of budget approval and /or virement are to be followed.

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

- Estimated residual value not in excess of £5,000 – in consultation with the Section 151 Officer
- Estimated residual value £5,001 to £10,000 – in consultation with Section 151 Officer. Executive Member to be informed.
- Estimated residual value in excess of £10,000 – in consultation with the Section 151 Officer. Executive to be informed.

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

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

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

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

**F6.2.1** Such approval (where appropriate) is to be on terms recommended by the District Valuer, or an independent Valuer.

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

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

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

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

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

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

### **F7 Section 151 Officer**

**F7.1** The Section 151 Officer is responsible for:

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

### **F8 Directors, Heads of Service and Budget Holders**

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

- Ensuring that records and assets are properly maintained.
- Drawing up contingency plans for the security of assets and continuity of service in the event of disaster or system failure.
- Ensuring that lessees and other prospective occupiers of council land or property are not allowed to take possession or enter the land until a lease or agreement has been established. The lease or agreement should be in a form approved by the Head of Property Services, in consultation with the Section 151 Officer and the Monitoring Officer, where appropriate.
- Ensuring the proper security and safe custody of all buildings, vehicles, equipment, furniture, stock, stores, money and other property belonging to the council.



- Where land or buildings are surplus to requirements, preparing a report containing a recommendation for the disposal of the land, in consultation with the Head of Property Services and the Section 151 Officer.
- Maintaining an inventory of moveable assets (all furniture, fittings and equipment, plant and machinery) above the value of £500, held within his or her areas of responsibility. The Director or Head of Information Community Technology shall maintain a separate register of all ICT equipment, on behalf of the council, as per financial rule F9.2.
- Passing title deeds of council property to the Monitoring Officer who is responsible for the custody of all title deeds on behalf of the council.
- Ensuring that council assets are not taken, borrowed or used by a Member or Employee for their personal use without proper authority.
- Ensuring, in accordance with arrangements agreed by the Section 151 Officer that all assets are correctly identified and insured.
- Notifying the Section 151 Officer and the Director or Head of Property Services of any proposals to acquire or dispose of council property.
- Arranging for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- Ensuring that all Employees under their management are aware that they have a personal responsibility with regard to safeguarding the council's assets and information, including the requirements of the Data Protection Acts and software copyright legislation. This should include confidentiality of information, whether held in manual or computerised records.

## **F9 Information and Communication Technology (ICT)**

**F9.1** All ICT equipment, irrespective of its individual value, shall be procured by, or with the prior approval of the Director or Head of Service responsible for ICT Services (or his or her delegated Officer), particularly where the equipment has a strategic value or requires network access.

**F9.2** This Director or delegated Officer shall maintain a register of all ICT equipment above the value of £250 owned by the council, including its location and serial number.

**F9.3** Certain equipment to be determined by the Director or Head of Service responsible for Information Communication Technology, such as cameras, blackberries, etc shall be procured by him or her and recorded in the ICT inventory.

**F9.4** The Council's internal IT policy and guidance should be followed, and in particular, no unofficial or unlicensed software shall be used on the council's computer equipment, under any circumstances.

**F9.5** Computer games supplied as part of licensed software shall not be played in council time.

## **F10 Stocks and Stores**

**F10.1** Disposable items such as stationery, goods for sale or materials may be held in store. They should be properly controlled and accounted for to ensure they are used only for council purposes.

**F10.2** Stocks shall not be in excess of normal requirements except in special circumstances, with the approval of the Director or Head of Service, who shall keep a written record and justification of such circumstances.

**F10.3** Each Director or Head of Service shall be responsible for the care and custody of the stocks and stores within his or her service(s).

**F10.4** Directors or Heads of Service shall arrange for periodical test examinations of stocks and ensure that all stocks are checked at least once a year, where appropriate, as determined by the Section 151 Officer. This is to be under the supervision of persons without direct responsibility for the custody of the stocks or stores being checked.

**F10.5** The Section 151 Officer shall be entitled to receive from each Director or Head of Service such information as he or she requires in relation to stocks or stores, for the accounting, costing and financial records at the financial year end.

**F10.6** Budget holders are responsible for investigating discrepancies and pursuing them to a satisfactory conclusion. Where this is not possible or the amount is over £250, this should be reported to the Section 151 Officer and Head of Internal Audit.

**F10.7** Adjustments in respect of stock deficiencies and surpluses shall be subject to the approval of the Section 151 Officer, or in the case of major items, the Executive.

**F10.8** Private individuals or companies shall not be permitted to purchase items previously acquired by the council unless they:

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

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

## **F11 Write-offs**

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

- Estimated residual value up to £250 - Directors or Heads of Service.
- Estimated residual value over £250 - Section 151 Officer.

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

## **F12 Petty Cash and Cash Floats**

**F12.1** Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without his or her express permission.

**F12.2** The Section 151 Officer may provide petty cash advance accounts or cash floats for such Employees as may need them for the purpose of defraying petty cash or other expenses. Petty cash accounts shall be maintained in the imprest system and shall be controlled by the Employee designated by the Director concerned.

**F12.3** Payments from any such account shall be limited to minor individual items of expenditure up to a maximum of £50. The Section 151 Officer has discretion to allow larger payments in exceptional circumstances.

**F12.4** All payments shall normally be supported by a receipted voucher and proper VAT receipts where appropriate. However, the Section 151 Officer has discretion to allow payments to be obtained without obtaining receipts in exceptional circumstances.

**F12.5** Payments in reimbursement of travelling or subsistence expenses shall not be paid out of petty cash accounts.

**F12.6** An employee responsible for a petty cash or cash float shall, if so requested, give the Section 151 Officer a certificate as to the state of such a float.

**F12.7** Change floats are not to be used for any other purpose than for providing change, with the exception of cash advances in special circumstances, subject to the approval of the Section 151 Officer. Such approval should be recorded.

**F12.8** When an Employee responsible for such an account leaves the employment of the council, or ceases to be entitled to hold an advance, his or her Director or Head of Service shall ensure that he or she accounts to him for the amount advanced.

### **F13 Intellectual Property**

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

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

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

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

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

## **G: TREASURY MANAGEMENT**

### **G1 Introduction**

**G1.1** Many millions of pounds pass through the council's books each year and must be carefully managed in a way which balances risk with return, but with the overriding consideration being the security of the council's funds.

**G1.2** The general policy objective is that the council should invest prudently the surplus funds held on behalf of the community, giving priority to security and liquidity of the funds.

**G1.3** The council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities. All of the council's borrowings and investments are carried out in accordance with this code.

### **G2 Full Council**

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

### **G3 Executive or other appropriate committee**

**G3.1** The Executive is responsible for:

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

### **G4 Section 151 Officer**

**G4.1** The Section 151 Officer is responsible for:

- Controlling all money in the hands of the council.

- Acting in accordance with the CIPFA's Code of Practice for Treasury Management in Local Authorities.
- Reporting to the Executive a proposed Treasury Management Strategy for the coming financial year at or before the start of the financial year.
- Implementing and monitoring the council's Treasury Management Statement.
- Reporting to the Full Council twice in each financial year on treasury management activity and prudential indicators and the exercise of his or her delegated treasury management authority. One such report will comprise an annual report on treasury management outturn, for presentation by 30th September of the succeeding financial year.
- Ensuring that all investment and borrowing is made in the name of the council.
- Ensuring that all securities that are the property of the council and the title deeds of all property in the council's ownership are held securely.
- Acting as the council's registrar of stocks, bonds and mortgages and maintaining records of all borrowing and investment of money by the council.
- Arranging for all trust funds to be held, where possible, in the name of the council. All Officers acting as Trustees by virtue of their official position, shall deposit securities, etc. relating to the trust with the Section 151 Officer unless the deed otherwise provides.
- Where funds are held on behalf of third parties, arranging for their secure administration, approved by the Section 151 Officer, and maintaining written records of transactions.
- Ensuring that all trust funds are operated within any relevant legislation and the specific requirements of each trust.

## **G5 Banking Arrangements**

### **G5.1 The Section 151 Officer is responsible for:**

- Operating bank accounts as he/she considers necessary. No bank accounts may be opened in the council's name, or closed, without the prior approval of the Section 151 Officer.

- Instructing the council's bankers to prohibit an overdrawn position on the aggregate bank accounts of the council beyond the level set out in the facilities agreement between the council and its bankers.
- Ensuring that an up to date list of all authorised bank signatories on the council's bank accounts is maintained and made available to the council's bankers.

Designated Officers from within GO Shared Services are permitted to act as authorised bank signatories for each of the councils being served by the Shared Services.

- Ensuring that an up to date list of Officers holding Business Charge Cards or Government Procurement cards on behalf of the council is maintained, showing individual approved credit limits.
- Advising on secure arrangements for banking and cash handling.
- Authorising the provision of change floats at the request of the Directors or Heads of Service (see Petty Cash Financial Rules).
- Ensuring that designated Officers within GO Shared Services are given access to the bank account details of each of the councils being served by the Shared Service, to facilitate transactional processing and other finance related work, as required.

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

- Ensuring that banking and cash handling is carried out in accordance with Financial Rules.
- Ensuring that Officers are properly trained and aware of their responsibilities.
- Ensuring that Officers are personally protected against risk.
- Ensuring that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the Section 151 Officer.

#### G5.3 Budget Holders are responsible for:

- Ensuring that all Officers are aware of the controls required over banking and cash handling and follow instructions thereon.
- Ensuring that cash held on the premises is kept to a minimum, held securely, and is always within the limits agreed with the council's insurers.

Cash in excess of these limits should be banked before the end of the day. Cash should not be held at an Officer's home as this may negate the Council's insurance cover.

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

N.B. Cheques received to a value in excess of £10,000 must be banked at the earliest opportunity but in any event within 3 days of receipt.

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

## **G6 BACS Payments and Cheques**

**G6.1** The payment of all monies from the council, with the exception of sums payable from advance accounts or business credit cards, shall be by BACS or other instrument drawn on the council's bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.



**G6.2** All BACS transmissions, irrespective of value, will be supported by an authorisation form signed by the Officer responsible for producing the payment, plus either the Section 151 Officer or another authorised bank signatory.

**G6.3** All individual cheques drawn for an amount in excess of £25,000 shall be countersigned by another authorised Employee, who shall be an authorised bank signatory to the bank account.

**G6.4** All cheque stocks shall be ordered only on the authority of the Section 151 Officer, who shall make proper arrangements for their safe custody.

**G6.5** All cheques drawn on the council's main bank accounts shall bear the facsimile signature of the Section 151 Officer or other employee authorised to do so.

**G6.6** All manually prepared cheques for an amount in excess of £5,000 shall be countersigned by another authorised employee, who shall be an authorised bank signatory to the bank account.

## **H: FINANCIAL SYSTEMS AND ACCOUNTING PROCEDURES**

### **H1 Introduction**

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

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

### **H2 Section 151 Officer**

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

- Selecting suitable accounting policies that comply with legislation and best practice guidance, and ensuring that they are applied consistently.
- Determining the accounting systems and procedures, form of accounts and supporting financial records.
- Ensuring that delegated Officers within the GO Shared Services are given access to the financial records of each of the councils being served by the Shared Service, to facilitate transactional processing and other finance related work, as required.
- Issuing advice, guidance and procedures for Officers and others acting on the council's behalf.
- Establishing arrangements for the audit of the council's financial affairs.
- Approving any new financial system to be introduced and any changes to be made to existing financial systems.
- Producing timetables for accounting tasks such as the production of budgets and final accounts and the collection or submission of other financial information for processing (e.g. Accounts Payable deadlines).
- Ensuring that all suspense and holding accounts are controlled and reconciled on a monthly basis.

- Ensuring that all bank accounts are controlled and reconciled to the main accounting system regularly (at least monthly) to confirm that all transactions have been processed into the Council's accounts.

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

### **H3 Directors, Heads of Service and Budget Holders**

**H3.1** Each Director or Head of Service shall ensure that all financial and computerised systems for which he or she is responsible are adequately controlled and comply with the requirements laid down by the Section 151 Officer. Any proposed changes to these systems / procedures or any new systems / procedures must be also approved by the Section 151 Officer.

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

- The proper operation of financial processes in their areas of responsibility and ensuring that all Officers under their management are aware of, and properly operate, the financial systems relevant to their area of work.
- Establishing and maintaining sound financial processes within their areas of management.
- Documenting systems and ensuring that Officers are properly trained in their use.
- Ensuring that financial transactions are recorded in a timely and accurate manner, and are processed into the main accounting system using correct accounting codes. Transactions should not be processed to incorrect accounting codes as a way of avoiding virement rules.
- Using only their own accounting codes unless they have the express written permission of another Budget Holder to use theirs.
- Properly recording the nature and value of income, expenditure and assets and referring to original documentation where possible.
- Ensuring that income and expenditure are accounted for separately and are not set off against each other.
- Accounting for revenue and capital income and expenditure separately.

- Maintaining a complete audit trail allowing financial transactions to be traced from the accounting records to the original documentation and vice versa.
- Ensuring that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements under Data Protection legislation, approved by the Section 151 Officer.
- Implementing organisational structures that provide adequate segregation of duties to minimise the risk of fraud, error or other malpractice. In particular, ensuring that Employees charged with the duty of examining and checking the amounts of cash transactions (or cash equivalents) shall not themselves be engaged in any of these transactions.
- Establishing an effective scheme of delegation, identifying Officers authorised to act on their behalf in respect of financial transactions, determining the limits of their authority and ensuring that the scheme operates effectively.
- Supplying a written record of authorised Officers within his or her area of responsibility, with specimen signatures and delegated limits, to the Section 151 Officer, and ensuring they are maintained up-to-date. Directors shall still remain responsible for the activities of delegated functions.
- Implementing and documenting effective contingency arrangements in a disaster recovery plan, including back-up procedures, to allow systems to resume operation quickly in the event of an interruption in service. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off-site, or in an alternative location within the building.
- Ensuring that computer and other systems are registered in accordance with Data Protection legislation and that staff are aware of their responsibilities under this and the Freedom of Information legislation.
- Carrying out accounting tasks to meet the standards and timescales set by the Section 151 Officer or his delegated Deputy.

#### **H4 Employees**

**H4.1** Each nominated employee shall ensure that all financial and finance related systems are reconciled to the council's main financial management system quarterly, unless more frequent reconciliation is required by the Section 151 Officer.

**H4.2** Any amendments to a prime record should be made in ink and initialled by the Employee making it. Correcting fluid, or any other means of obliteration, shall not be used to amend prime financial records.

## **H5 Orders for Work, Goods and Services**

**H5.1** Requisitions and official orders shall, in addition to any requirement under the Contracts Procedure Rules, be in a form approved by the Section 151 Officer and are to be authorised only by Employees designated for that purpose.

**H5.2** Requisitions and official orders shall be issued for all works, supplies or services to be supplied to the council, except for supplies of public utility services, periodical payments such as rent or business rates, for petty cash purchases or such other exceptions as the Section 151 Officer may approve.

**H5.3** Requisitions or official orders shall clearly indicate the nature and quantity of the work or services required and any relevant contract or agreed prices.

**H5.4** Each requisition and order shall conform to the guidelines contained in the council's Contract Procedure Rules.

**H5.5** Prior to placing an order Employees shall ensure that provision has been made in the budget for the cost of the works, goods or services to be supplied. Where applicable, these should comply with European Community Directories and prescribed procedures.

**H5.6** All goods and services shall only be ordered by an authorised Officer, in accordance with written delegations and procedures.

**H5.7** All orders for goods and services must be approved by budget holders before being issued to the supplier. The approval limits will normally be assigned in accordance with the following levels of authority:-

- Authorised Budget Holder –Up to £10,000, subject to individual approved limit
- Manager up to £50,000, subject to individual approved limit
- Manager, Director or Head of Service up to £100,000, subject to individual approved limit
- Director up to £250,000
- Section 151 Officer, Deputy Section 151 Officer, Chief Executive or Head of Paid Service £unlimited

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

**H5.8** All ICT equipment, irrespective of its individual value, shall only be procured by, or with the prior approval of the Director responsible for ICT Services (or his or her delegated Officer), particularly where the equipment has a strategic value or requires network access.

**H5.9** All goods and services received shall be checked, to ensure that they are in accordance with the order, are for the correct quantity and quality standards and that any work has been completed satisfactorily. Proper entries shall be made in inventories or stores records, where appropriate.

**H5.10** All orders should be checked to ensure prices, calculations, trade discounts, other allowances and credits are correct

**H5.11** All expenditure, including VAT shall be accurately recorded against the correct allocated budget and any exceptions corrected.

**H5.12** All appropriate evidence of the transaction and payment documents shall be retained and stored for the defined period, in accordance with the council's document retention schedule.

## **H6 Payment of Accounts**

**H6.1** The payment of all monies from the council, with the exception of sums payable from advance accounts or business credit cards (if applicable), shall be by BACS or other instrument drawn on the council's bank account by the section 151 Officer, including cheques when payment by BACS is not possible or appropriate.

**H6.2** Payment will only be made if the budget holder is satisfied that the requirements of Financial Rules H5.9 and H5.10 have been met. All payments should be made to the correct organisation /individual, for the correct amount.

**H6.3** VAT invoices must not be altered. If the amount of the invoice is incorrect, either a replacement or a credit note shall be requested

**H6.4** Purchase invoices received into a department shall be passed without delay to the GO Shared Service, Financial Services, to be examined as considered necessary. For this purpose, Financial Services are entitled to make such enquiries and to receive such information and explanation as they may require.

**H6.5** Payment will not be made on the basis of a statement or a reminder account.

**H6.6** Payments shall be made within 30 days of receipt by the council or within any mutually agreed terms, in order to avoid the possibility of penalty interest becoming payable.

**H6.7** Any penalty interest becoming payable under the Late Payment of Commercial Debts (Interest) Act 1998 shall be charged back to the appropriate budget head unless, in the view of the Section 151 Officer, unreasonable delays were occasioned by another Employee.

**H6.8** A Director must consult with the Section 151 Officer before entering into any mutual payment terms with a supplier. All such agreements must be made in writing.

**H6.9** Prepayment for goods and services should be avoided where possible, in order to minimise risk to the council. If a prepayment is unavoidable then it should be approved by the GO Shared Services.

## **H7 Payments to Employees and Members**

**H7.1** The interpretation and application of pay scales, conditions of service and other related matters shall be the responsibility of the Head of Paid Service (Chief Executive), with whom Directors shall confer, as necessary, in connection with their application to employees in their areas of responsibility.

**H7.2** The Section 151 Officer is responsible for ensuring that budget provision exists for all existing and new employees and for making all payments of salaries and wages to all staff and Members, in accordance with agreed terms and conditions and timescales.

**H7.3** The Section 151 Officer is responsible for the maintenance of proper national insurance, income tax and other statutory pay records and for the accurate and timely payment of pension contributions and other deductions to third parties.

**H7.4** The GO Shared Services Head of Human Resources, in consultation with the Section 151 Officer, shall approve and control the arrangements for payments of salaries and wages to all staff, including the process for payments for overtime and for payment of allowances to Members.

**H7.5** Directors and/or Managers must notify the GO Shared Services, as early as possible of all appointments, dismissals, resignations, absences from duty, transfers and proposed changes of employees, together with such other information as is necessary to maintain adequate personnel records for the council.

**H7.6** No new appointments or changes to arrangements for existing employees are permitted without adequate budget provision. All appointments shall be made in accordance with the council's rules and approved establishments, grades and scales of pay.

**H7.7** Directors and/or budget holders are responsible for the monitoring of spending against approved employee-related budgets, ensuring that the manpower budget is not exceeded without appropriate authority and that it is managed to enable the agreed level of service to be provided.

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

## **H8 Travel and Subsistence Claims**

**H8.1** Claims for payment of allowances, travelling and subsistence following the process approved by the GO Shared Services Head of Human Resources, in consultation with the Section 151 Officer.

**H8.2** Claims shall normally be submitted monthly and always by the end of April following the financial year end. Employees are responsible for ensuring that journeys made and expenses claimed have been properly incurred and supporting VAT receipts are obtained. All claims to be authorised by an employee's line manager.

**H8.3** The council reserves the right not to pay any travel and/or expense claims that are not submitted in a timely manner, without good reason. Line Managers are responsible for approving or not approving all claims. In the case of any queries, line Managers should consult with their Director or Head of Service.

## **H9 Value Added Taxation**

**H9.1** The Section 151 Officer is responsible for advising Directors and Heads of Service and Members, in the light of guidance by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the council. Written advice shall be made available to all relevant Employees.

**H9.2** The Section 151 Officer is responsible for maintaining the council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

**H9.3** The Section 151 Officer or his /her authorised representative shall be responsible for liaising with HM Revenue and Customs on all VAT related matters and for submitting and signing the necessary returns/claims in a timely manner.



**H9.4** VAT must be correctly claimed on expenditure (Input Tax) and valid tax invoices retained by the council

**H9.5** VAT must be correctly charged on income from works, goods and services supplied by the council (Output Tax) and a valid VAT invoice or VAT receipt issued to any party outside the council, in accordance with the form approved by the Section 151 Officer.

**H9.6** Under no circumstances shall an Officer or Member use the auspices of the council to purchase goods or services for their own private purposes to avoid paying VAT. To do so may result in disciplinary action.

## **H10 Trading Accounts / Business Units**

**H10.1** It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units. These shall be accounted for in accordance with CIPFA's Service Reporting Code of Practice.

**H10.2** The Section 151 Officer shall be consulted if a business unit wishes to enter into a contract with a third party, where the contract exceeds the remaining life of their main contract with the council. In general, such contracts should not be entered into unless they are capable of being terminated within the main contract period without penalty.

A service designated as a trading service may increase expenditure estimates approved by the Council, in consultation with the relevant Director and Executive Member and the Section 151 Officer as a result of increased income, in line with the virement rules set out in the Financial Rules.

**H10.3** A trading account or business unit for the provision of sports, recreation or cultural activities may increase its fees and charges during the year in order to remain in line with competitors and demand, in consultation with the relevant Executive Member.

## **H11 Journals**

**H11.1** All journal entries and other daily input into the Financial Management system (Agresso) may only be processed by authorised Employees, with the approval of the Section 151 Officer. This will normally be restricted to Officers within the GO Shared Services, Financial Services.

**H11.2** Journals shall only be processed within the general ledger of the council. No journals are permitted between different company / council general ledgers.

**H11.3** The GO Shared Services Head(s) of Finance is responsible for ensuring that a daily report of all journals raised on the finance system is produced and retained for audit purposes. This report shall be checked and signed as agreed by a delegated senior Officer within GO Shared Services.

## **I: INCOME**

### **II Introduction**

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

### **II Executive**

**II.1** The Executive is responsible for:-

- Setting fees and charges for services, approved as part of the annual budget setting process.
- Approving procedures for the write off of bad debts.
- Approving the write off of bad debts in excess of the approved Section 151 Officer limit, under Financial Rule 19

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

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

### **III Section 151 Officer**

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

- Agreeing arrangements made for the collection of income due to the council and approving the procedures, systems and documentation for its collection.
- Ensuring that all claims for funds, including grants are made by the due date
- Agreeing the arrangements for ordering and supplying all receipt forms, books or similar items and satisfying him/herself regarding the arrangements for their control.
- Operating the approved procedures for the write off of bad debts (Financial Rule 19).
- Recommending to Executive the fees and charges to be set for all services.

## 14 Directors and Heads of Service

### 14.1 Each Director or Head of Service is responsible for:-

- Recommending to the Section 151 Officer the fees and charges to be set for goods or services falling within their control, apart from those charges fixed on a statutory or nationally agreed basis.

This shall not apply to ad-hoc charges of a minor nature where a flexible pricing policy has been agreed, charges associated with partnership working which are set on a cost recovery basis, or rechargeable works.

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

## 15 Budget Holders

### 15.1 Budget Holders are responsible for:-

- Identifying all activities in their areas of management for which charges should be made, to whom, when, how much and whether VAT should be added.
- Maximising income within the council's policies and legislation.
- Maintaining a record of all income due to the council, including details of contracts, leases, grants and other arrangements.
- Ensuring that all income generated by their service is accounted for and that proper records are maintained, using systems and documentation approved by the Section 151 Officer.
- Ensuring that all Employees under their management are aware of, and operate, the internal controls that exist in their area.
- Where money is to be collected by debtor account, ensuring that the details of work done, goods supplied, services rendered or other amounts due, are correctly recorded and the debtor accounts rendered promptly.

- Assisting in the collection of debts that they have originated by providing further information requested by the debtor and by pursuing the debt on the Council's behalf and taking prompt action to recover debts, in conjunction with the Section 151 Officer, whilst having regard for the cost of collection. Debtor accounts should be reviewed regularly to identify unpaid accounts and recovery action required.
- Where responsibility for the collection of a debt has not been passed to the Section 151 Officer, establishing and initiating appropriate recovery procedures, including legal action, where necessary, for debts which have not been paid promptly.
- Ensuring that at least two employees are present when post is opened so that money received by post is properly identified, recorded and accounted for.
- Securing all income to safeguard against loss or theft and ensuring the security of cash handling.
- Ensuring that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received and that appropriate details are recorded on the paying-in slip to provide a complete audit trail.
- Ensuring that no expenditure is paid from income received.
- Reconciling income systems with the council's main accounting system monthly to ensure that all income received has reached the correct budget head and investigating where there is a discrepancy.
- Monitoring levels of income received and outstanding to establish trends and anomalies which should be investigated.
- Notifying the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31st March, in line with the financial year end timetable.

## **16 Employees**

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

## **17 Accounts Receivable (Debtors invoices)**

**17.1** A Budget Holder or delegated Officer must authorise all debtors' invoices for amounts less than £5.00, and all credit notes raised, irrespective of value.

**17.2** VAT must be properly recorded. Failure to do so may result in the council being unable to reclaim VAT and, in some circumstance, a penalty payment imposed by HMRC.

**17.3** Cash payments must be checked on receipt. In situations where electronic receipting is not available, an official, sequentially numbered receipt must be issued for a cash payment at the time of its receipt. A receipt must be issued for other forms of payment if requested by the payer. The transfer of all money between officers must be documented and the recipient should sign a receipt.

**17.4** Payments received in “Full and Final Settlement” shall only be accepted and accounted for if they are sufficient to clear fully the appropriate debt, unless with the approval of the Section 151 Officer and the Monitoring Officer.

## **18 Debt Recovery Procedures**

**18.1** Once raised, a debtor’s invoice may not be cancelled except by full payment, the issue of a credit note or by its formal writing off. A credit note can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt, or to recognise that an overpayment of housing benefit is being recovered from an on-going benefit entitlement.

**18.2** There must be proper documented systems for the payment of outstanding debtors’ invoices, including milestones and timelines, which shall be followed by delegated Officers.

**18.3** Outstanding debtors that are to be chased through legal proceedings are to be dealt with following the council’s debt recovery procedures.

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

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

## **19 Write off of unrecoverable Debts**

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

- The Section 151 Officer can write off any debt for which a bankruptcy or liquidation notice has been received.
- The Section 151 Officer can write off any debt of a deceased person who has a nil estate.

- The Section 151 Officer can write off any other individual debt to a maximum amount of £5,000, where the amount is unlikely to be recovered or where proceedings are inappropriate or unjustified. This authority cannot be delegated.
- All other individual debts, in excess of £5,000 can only be written off with the approval of Executive or other delegated Committee.

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

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

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

## **J: COUNCIL TAX AND NON-DOMESTIC RATES**

### **J1 Introduction**

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

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

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

### **J2 Section 151 Officer**

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

### **J3 Head of Revenues and Benefits**

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

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

## **K: COUNCIL TAX BENEFIT and HOUSING BENEFIT**

### **K1 Introduction**

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

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

### **K2 Section 151 Officer**

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

### **K3 Head of Revenues and Benefits**

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

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



## **L: EXTERNAL ARRANGEMENTS**

### **LI PARTNERSHIPS**

#### **LI.1 Introduction**

**LI.1.1** The council provides a distinctive leadership role for the community and brings together the contributions of a variety of stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of its area.

**LI.1.2** Partnerships play a key role in delivering community strategies and delivering the shared vision of services, based on user needs.

**LI.1.3** A partner is defined as being either an organisation (public or private) undertaking, part funding or participating in a project or a body whose nature or status gives it a right or obligation to support the project.

**LI.1.4** This section of the Financial Rules sets out the financial implications of working in partnership with external organisations.

#### **LI.2 Executive**

**LI.2.1** The Executive is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

**LI.2.2** The Executive can delegate functions, including those relating to partnerships, to Officers. These are set out in the Scheme of Delegation that forms part of the council's Constitution. Where functions are delegated, the Executive remains accountable for them to full Council.

**LI.2.3** The Chief Executive or delegated Officer shall represent the council on partnership and external bodies, in accordance with the Scheme of Delegation.

#### **LI.3 Section 151 Officer**

**LI.3.1** The Section 151 Officer is responsible for:-

- Ensuring that the accounting arrangements to be adopted relating to partnerships and joint arrangements are satisfactory.

- Promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the council.
- Considering the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- Ensuring that the risks have been fully appraised before agreements are entered into with external bodies. He or she should advise on effective controls to ensure that resources are used efficiently and effectively.
- Ensuring that all funding notified by external bodies is received and properly recorded in the council's accounts.

#### **L1.4 Directors and Heads of Service**

**L1.4.1** Directors and Heads of Service are responsible for:-

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

## **L2 EXTERNAL FUNDING**

### **L2.1 Introduction**

**L2.1.1** External funding can be an important source of income to the council, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the council.

**L2.1.2** The council shall seek to maximise its resources by attracting external funding where appropriate. However, in some instances, available funding may be linked to tight specifications and may not be sufficiently flexible to link to the council's strategies.

## **L2.2 Section 151 Officer**

**L2.2.1** The Section 151 Officer is responsible for:-

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

## **L2.3 Directors and Heads of Service**

**L2.3.1** Directors and Heads of Service are responsible for ensuring that:-

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

## **L3 WORK FOR THIRD PARTIES**

### **L3.1 Introduction**

**L3.1.1** Current legislation enables the council to provide a range of services to other bodies. Such work may enable a Service area to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is within current legislation.

**L3.1.2** Contracts for the work should be drawn up using guidance provided by the Monitoring Officer and the Section 151 Officer to the council. The proposals should be costed properly in accordance with guidance provided by the Section 151 Officer.

**L3.1.3** Guidance with regard to the financial aspects of third party contracts and the maintenance of the contracts register should be followed.

### **L3.2 Executive**

**L3.2.1** The Executive is responsible for approving contractual arrangements for any work carried out by the council for third parties or external bodies in addition to the normal business. This responsibility can be delegated to the Senior Leadership Team (Directors) of the council.

### **L3.3 Section 151 Officer**

**L3.3.1** The Section 151 Officer is responsible for issuing guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **L3.4 Directors and Heads of Service**

**L3.4.1** Directors and Heads of Service are responsible for ensuring that:-

- Approval is obtained before any negotiations for the work are concluded.
- Contracts operate to the benefit of the council and do not impact adversely upon the services provided for the council.
- No contract is subsidised by the council.
- The Service area has the appropriate expertise to deliver the contract.
- Appropriate insurance arrangements are put in place.

## Constitution of West Oxfordshire County Council

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

A copy of the Financial Procedure Rules are available on the Council's website:

[https://www.westoxon.gov.uk/media/g5lhx4vg/financial\\_rules\\_final\\_v1-0-july-2015-update.pdf](https://www.westoxon.gov.uk/media/g5lhx4vg/financial_rules_final_v1-0-july-2015-update.pdf)

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## 5J Officer Employment Procedure Rules

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### I.0 Introduction

### I.1 Definitions

In these Procedure Rules:

- I.1.1 “The 2001 Regulations” means the Local Authorities (Standing Orders)(England) Regulations 2001 and “The 2015 Regulations” means the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
- I.1.2 “Appointor” means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer.
- I.1.3 “Disciplinary Action” in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council’s usual practice, be recorded on the Officer’s personal file. This includes any proposal for dismissal of an Officer for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.
- I.1.4 “Dismissor” means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer.
- I.1.5 “Head of Paid Service” means the Officer designated under section 4(1) of the Local Government and Housing Act 1989.
- I.1.6 “Chief Finance Officer” means the Officer having responsibility for the purposes of section 151 of the Local Government Act 1972, for the administration of the Council’s financial affairs.
- I.1.7 “Monitoring Officer” means the Officer designated under section 5(1) of the Local Government and Housing Act 1989.
- I.1.8 An “Officer” may include an individual employed by the Council or employed by another employer with the purpose of providing a service to the Council. Such employer may be another Local Authority or Publica Group Ltd, for example.

- 1.1.9 “Statutory Chief Officer” means, for the purposes of these provisions, the Chief Financial Officer or the Monitoring Officer.
- 1.1.10 “Non Statutory Chief Officer” means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or Sub Committee, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.11 “Deputy Chief Officer” means a person who, with respect to all or most of the duties of his or her post, is required to report directly or is indirectly accountable to one or more of the Statutory or Non-Statutory Chief Officers, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.12 “Performance and Appointments Committee” means a Committee established by Council in accordance with the Local Government Act 1972. For the purposes of these Procedure Rules, at least one Member of the Executive must be a Member of this Committee.

## 1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all Officers other than the Head of Paid Service, the Chief Financial Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by either the Head of Paid Service, or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with either the Council’s or Publica Group’s Staffing Policies, as adopted from time to time, depending on which authority is the employing body.

## 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions, in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Chief Executive
Statutory Chief Officers	Chief Financial Officer Monitoring Officer
Non Statutory Chief Officers	None
Deputy Chief Officers	None

In accordance with the regulations, those posts, other than clerical or administrative posts, that are direct reports of the Head of Paid Service are known as Non Statutory Chief Officers and those posts that are direct reports of Chief Officers (Statutory or otherwise) are known as Deputy Chief Officers.



Officers of the Council, may or may not be employed by the Council. Where they are employed by another employer such as Publica Group, these Officer Employment Procedure Rules are supplemented by the Publica Group suite of human resources and employment policies.

## **2.0 Recruitment**

### **2.1 Declarations**

A candidate for any employment with the Council, or an Officer involved in a transfer, promotion or disciplinary matter, shall disclose whether they are related to, or cohabit with, any Member or Officer who may have an influence on the decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an Officer, disciplinary action.

### **2.2 Support for Appointment**

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council, shall disqualify the candidate concerned in such canvassing for that appointment.

A Member of the Council shall not solicit for any person any appointment at the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

### **2.3 Confidentiality**

The Council, the Executive, a Committee, a Sub-Committee or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under *section 100A of the 1972 Act* where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual Officer are to be discussed.

### **2.4 Recruitment of Head of Paid Service and Statutory Chief Officers**

Where the Council proposes to appoint a Head of Paid Service or Statutory Chief Officer, the Head of Paid Service or their delegate will draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed. The post will be advertised and a copy of the statement sent to any person on request.

Where a post has been advertised, the Performance and Appointments Committee will either interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. If no qualified person has applied, the Council will make further arrangements for advertising the post again.

In respect of the interviews for the posts of Statutory Chief Officers, other than the Head of Paid Service, the Performance and Appointments Committee will be advised by the Head of Paid Service.

## **3.0 Appointment**

### 3.1 Power to Appoint

The Performance & Appointments Committee will be responsible for the function of the appointment of the Head of Paid Service and Statutory Chief Officers. The power to approve the appointment of the Head of Paid Service or Statutory Chief Officers shall be exercised by Council.

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate seniority or an external independent expert or recruitment consultant.

### 3.2 Consultation Procedure for Appointment

In respect the appointment of Statutory and non-Statutory Chief Officers and Deputy Chief Officers, an offer of appointment to any of those officer posts must not be made by the Appointor until this statutory consultation process has been complied with.

The Appointor must notify the Monitoring Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including reasons for the choice of the preferred candidate. The Monitoring Officer must notify every Member of the Executive of the Council of the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, together with any other particulars relevant to the appointment. Members of the Executive will have a specified period of time in which to make any objection to the making of the offer to the Leader, for the Leader to notify the Monitoring Officer of such objections. The appointment may not be made until either the Leader has notified the Monitoring Officer that no such objections have been received from Executive Members in the period specified, or the Appointor is satisfied that any objections that were received were either not material or not well founded.

### 3.3 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Chief Financial Officer	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Monitoring Officer	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Non-Statutory Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive

Deputy Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive
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#### 4.0 Disciplinary Action

##### 4.1 Investigation of alleged misconduct

This paragraph applies to the Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 below relating to the Head of Paid Service and Statutory Chief Officers.

The Council’s Performance and Appointments Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Financial Officer or Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any disciplinary action to be taken, as necessary, in accordance with any Council staffing policies which have been adopted by the Council from time to time.

The Head of Paid Service or his nominated representative, will investigate any alleged misconduct in respect of non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council or Publica Group staffing policies, as applicable, which have been adopted from time to time. The Head of Paid Service’s nominated representative may include an Officer of the Council of the appropriate level of seniority, who may or may not be an employee of the Council, or an external independent expert. The nominated representative may, pending the outcome of any investigation, suspend the non-Statutory Chief Officer or Deputy Chief Officer, for no longer than is necessary to investigate the allegations; such suspension will be on full pay other than in exceptional circumstances.

##### 4.2 Head of Paid Service and Statutory Chief Officers

The Council’s Head of Paid Service and Statutory Chief Officers cannot be dismissed by the Authority, unless this procedure has been complied with.

Where an allegation of misconduct in respect of the Head of Paid Service or a Statutory Chief Officer requires an investigation, an Independent Panel will be formed for this purpose. Pending the report of such an Independent Panel the Statutory Officer may be suspended by the Performance and Appointments Committee whilst the alleged misconduct is investigated. Any such suspension will be for a maximum period of 2 calendar months and will be on full pay.

In consulting an Independent Panel to deal with such allegations of misconduct, the Performance and Appointments Committee will invite Independent Persons who have been appointed by the Council for the purposes of the Member’s Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council’s appointed Independent

Persons, then further invitations may be made to Independent Persons appointed by another Council.

The role of the Independent Panel is to investigate the alleged misconduct and prepare a report setting out the conclusions of their investigation, and any other advice, views or recommendations as to any proposed disciplinary or other action, including dismissal. In carrying out their investigation the Independent Panel may inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect and require any Officer or Member of the Council to answer questions concerning the conduct of the relevant Officer.

If the recommendation of the independent Panel is disciplinary action other than dismissal, the Panel will report back to the Performance and Appointments Committee who will consider the report and may impose disciplinary action other than dismissal.

Where the Independent Panel recommends dismissal, or the Performance and Appointments Committee recommend dismissal, the matter must be dealt with by a meeting of the Council. At least 20 working days after the Independent Panel has been appointed a meeting of the Council will be held to receive the report of the Independent Panel and any recommendations of the Performance and Appointments Committee. The Council must, before taking a vote on whether or not to approve the proposed dismissal, take into account any advice, views or recommendations of the Independent Panel, the conclusions of any investigation into the alleged misconduct and any representations from the relevant Officer or their representative.

A Head of Paid Service or Statutory Chief Officer attending a Council meeting where proposed disciplinary action against them is being considered, is entitled to make both verbal and written representations to Council, as is their representative, who may be a colleague, a Union representative, a Companion or a Lawyer.

#### 4.3 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Service	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None
Statutory Chief Officers	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None

Non Statutory Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative

## 5.0 Dismissal

### 5.1 Power to Dismiss

The Council will be responsible for the function of dismissal of the Head of Paid Service and the Statutory Chief Officers as above.

Subject to the consultation process below, the Head of Paid Service or their nominated representative, shall decide upon any disciplinary action following a disciplinary hearing and shall be responsible for the function of dismissal of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may not be the same individual responsible for the investigation into the alleged misconduct and must be wholly independent from that individual.

### 5.2 Consultation Procedure for Dismissal

The statutory consultation procedure applies to the dismissal of a non-Statutory Chief Officer and Deputy Chief Officer.

Notice of the dismissal of non-Statutory Chief Officers and Deputy Chief Officers must not be given by the Dismissor until the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision. The Monitoring Officer will notify every Member of the Executive of the Council of the name of the person whom the Dismissor wishes to dismiss and the reasons, any other particulars relevant to the dismissal, and the period within which they may object to the dismissal, with such objections being made to the Leader, who shall make them to the Monitoring Officer. Such notice of dismissal may not be served until either the Leader has specified in that period that no such objections have been raised by Executive Members, or the Monitoring Officer has advised the Dismissor that no such objections have been received in the time period, or the Dismissor is satisfied that any objections received from the Leader within that period are not material or not well founded.

### 5.3 Appeals

Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of disciplinary action against them is wrong or unjust may appeal in accordance with any

relevant Staffing Policies to the Head of Paid Service or his nominated representative. The Head of Paid Service's nominated representative may include a Council Officer of the appropriate level of seniority or an external expert, but shall not be the same individual responsible for the disciplinary action or the dismissal, not the same individual responsible for the investigation of alleged misconduct and must be wholly independent from those individuals.

The Head of Paid Service and Statutory Chief Officers shall have no right of appeal against disciplinary action.

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## PART 5K BUDGET PROCEDURE RULES

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### 1.0 Summary

The Council has a duty under *section 30(6) Local Government Finance Act 1992* to set a lawful budget in a timely manner.

Members have a fiduciary duty to Council Tax payers. This means they have a duty to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.

Failure to set a lawful budget in time may lead to a loss of revenue, significant additional administrative costs, as well as reputational damage. Failure to set a budget may lead to intervention from the Secretary of State under *section 15 Local Government Act 1999*.

### 2.0 The Legal Duty

*Section 30(6) of the Local Government Finance Act 1992* provides that the Council has to set its budget before 11 March in the financial year preceding the one in respect of which the budget is set. This means the Council has a duty to set the budget before 11 March each year.

If the budget is set after that date, the Act says the failure to set a budget within the deadline does not, in itself, invalidate the budget. However, such delay may have significant financial, administrative and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.

*Section 66 of the 1992 Act* provides that failure to set a Council tax (or delay in setting a Council tax) shall not be challenged except by an application for judicial review. The Secretary of State and any other person with an interest or “standing” may apply for judicial review.

### 3.0 Financial Implications of Delay

Delay in setting the Council Tax means a delay in collecting the Tax due not only to the Council, but also the precepting authorities such as Oxfordshire County Council, the Police, and others including Town and Parish Councils on whose behalf the Council acts as a collection authority.

The Council has a legal duty to provide a range of statutory services (such as refuse collection, homelessness prevention etc) and is not absolved from its duty because of the late setting of the Tax. It also has to pay the monies due to the precepting authorities whether or not it collects any Council Tax.

Even if the Council sets the budget before the deadline but much later than the planned Budget Council Meeting, there is still likely to be some disruption to the administrative arrangements relating to the collection of Council Tax (such as printing, posting, delivery of demands) that have cost implications.

#### **4.0 Duty to Take Advice from the Chief Financial Officer**

*Sections 25 to 29 of the Local Government Act 2003* impose duties on the Council in relation to how it sets and monitors its budget. These provisions require the Council to make prudent allowance for the risk and uncertainties in its budget and regularly monitor its finances during the year. The legislation leaves discretion to the Council about the allowances to be made and action to be taken.

Section 25 also requires the Council's Chief Financial Officer to make a report to Council when it is considering its budget and Council Tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so Members will have authoritative advice available to them when they make their decisions on the Executive's budget proposals and any alternative proposals.

The section, and the Council's Constitution, requires Members to have regard to the report in making their decisions. Any decision that ignores this professional advice, including the implications of delay, is potentially challengeable.

#### **5.0 The Budget Framework**

The Council will be responsible for the adoption of its budget, as set out in the Constitution (Part 3B.2). Once a budget is in place, it will be the responsibility of the Executive to implement it.

#### **6.0 Annual Process for Setting the Budget**

The process by which the budget shall be set is as follows:

The forthcoming annual Budget and Medium Term Financial Strategy is considered and agreed by Council in February each year.

In November or December each year detailed financial proposals for the forthcoming financial year in line with the Council's Medium Term Financial Strategy are considered by the Executive. The Overview and Scrutiny Committee will also consider the proposals and will have the opportunity to make recommendations to the Executive.

These proposals (administered and coordinated by the Chief Financial Officer) are built into the draft budget proposals for the Council and the draft Medium Term Financial Strategy is updated accordingly.

The meeting of the Executive in February will recommend a draft budget to the Council, and the level of Council Tax. The Proper Officer will then refer them, at the earliest opportunity, to the Council for decision.

The Executive meeting held to determine the Executive's budget proposals to Council must be held a minimum of 5 clear working days prior to the Council meeting being held to consider the budget for the Council.



## 7.0 The Budget Setting Council Meeting

- 7.1 The Executive's proposals will be presented to the Council under cover of a report from the Director of Finance, together with a budget pack and professional financial advice upon the proposal.
- 7.2 The Council will be asked to agree to suspend Council Procedure Rules for the meeting, where they conflict with these Budget Procedure Rules, to allow these Budget Procedure Rules to prevail.
- 7.3 The Council Budget Setting Meeting will be held in February of each year to set the budget for the forthcoming year. At the Council Budget Setting Meeting the Executive submits to the Council for its consideration in relation to the following financial year:
- Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of *sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992*;
  - Estimates of other amounts to be used for the purposes of such a calculation;
  - Estimates of such a calculation; or
  - Amounts required to be stated in a precept under *Chapter IV of Part I of the Local Government Finance Act 1992*.

The Executive will propose its recommendations relating to the above matters to the Council, which, if seconded, will be debated by the Council in accordance with the provisions below and voted upon.

The Council may:

- Adopt the Executive's proposals; or
- Amend them in accordance with the provisions set out below; or
- Refer them back to the Executive for further consideration.

Budget proposals can only be submitted to the Council by the Executive; others can propose amendments to the Executive's proposals. The decision on any amendment to the budget and on the budget (as amended, if applicable) will be made by way of a recorded vote in accordance with Council Procedure Rule 17.4 (Part 5A in the Constitution) and statutory requirements of the *Local Authorities (Standing Orders)(England)(Amendment) Regulations 2014*. The Leader must confirm that they accept the budget as agreed by Council or it has to be resubmitted to Council with the Executive's revised proposals, causing an inevitable delay.

- 7.4 If the Council accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision, and the Leader's verbal confirmation will be sought at the meeting that the Leader accepts the budget as agreed by the Council.
- 7.5 Any elected Member may put forward any amendments to the Executive's budget proposal to the Council. However, Members should not put forward proposals that would mean setting an unlawful budget and they must take Officer advice to ensure their proposals are in order. To this end any proposed amendments must be evaluated by the

Chief Financial Officer, or an Officer appointed by them for the purpose, to determine the service, financial and legal implications of implementing the amended proposals. The amended proposals are required to be submitted to the Chief Financial Officer, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) by no later than 12 noon 3 clear working days before the Council Budget Setting Meeting, excluding the date of the meeting itself (i.e. for a Council meeting on a Wednesday the deadline would be 12 noon on the previous Thursday).

- 7.6 Any proposed amendment to any matter on the Council Meeting Agenda, other than the budget, which would have, or would likely to have, a significant effect on the Executive's proposed budget, must also be submitted to the Chief Finance Officer, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 12 noon 3 clear working days before the Council Budget Setting Meeting, excluding the date of the meeting itself (i.e. for a Council meeting on a Wednesday the deadline would be 12 noon on the previous Thursday).
- 7.7 The amended proposals, once received by the Chief Financial Officer, will be held confidentially by the Finance Officers involved and not shared with other political parties, with the exception that any amendments received from an Elected Member who is part of a Group will be shared with the relevant Group Leader. All amended proposals will be considered by Finance Officers by no later than 12 noon 1 clear working day before the day of the Council meeting, excluding the day of the meeting itself (i.e. 12pm on a Monday for a meeting on a Wednesday). Finance Officers will confirm the legality and impact of all proposed amendments. Any that in the Chief Financial Officer's opinion are unlawful shall be rejected. The Chief Financial Officer will then share all amended proposals, together with Finance sign off and comments, with the Chief Executive and Monitoring Officer by 5pm 1 working day before the day of the Council meeting, excluding the day of the meeting itself (i.e. 5pm on Tuesday for a meeting on a Wednesday).
- 7.8 All proposed amendments will be shared with all Elected Members by 12 noon on the day of the Council meeting.
- 7.9 Following a period for negotiation, any minor amendments to proposed amendments, will be allowed up to 9am on the day of the meeting, provided they do not have substantial impact and are agreed with the Chief Financial Officer. By noon on the day of the Council meeting, Democratic Services Officers will circulate copies of all remaining proposed amendments to all Members of the Council. At the Council meeting, the Chair will refuse to accept any proposals for amendment that have not been through the above process, and signed off as being lawful proposals by the Council's Finance Officers. Further, at the Council meeting, the Chair will refuse to accept any amendments to amendments that have correctly been through the above procedure.
- 7.10 At the Council Budget Setting Meeting the Executive will propose their budget, with the Leader of the Council having up to 20 minutes for his speech. The proposal will need to be seconded and the Member seconding has 10 minutes available for this purpose. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.

7.11 The Leader of the largest Opposition Group on the Council will have the right to speak first on the Executive's proposal and may propose any amendment which has been signed off by the Chief Financial Officer and has 15 minutes maximum for their speech. The proposal will need to be seconded and the Member seconding the amendment has 10 minutes for this purpose and may make their speech at the time of seconding or reserve it for later in the debate on this amendment.

The Leader of the next largest Opposition Group will have the right to speak next on the earlier proposals put before Council, and may have 15 minutes to propose their own amendment, provided it has been signed off by the Chief Financial Officer, which shall need to be seconded with the seconder having a maximum of 10 minutes for this purpose and the right to reserve their speech until later in the debate.

This process continues until the Leader of each Opposition Group and all Members who are not in a Group have had the opportunity to speak, and the budget and all proposed amendments have been proposed and seconded.

7.12 The matter, being both the Executive's proposed and seconded budget and all amendments, that have been proposed and seconded, is then open to one full debate from all Members of the Council. Each Member may speak only once on this item, other than the Executive Leader, and any Group Leader or Member not in a Group who has submitted an amendment, who has a right of reply. Each speaker, other than as set out above, has a maximum of 5 minutes to speak where it is only the Executive's proposed budget under consideration, or 10 minutes where amendments have also been proposed and seconded.

The debate is managed by the Chair who has control of the debate and may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Chair's interpretation of these procedure rules and their application will be final.

7.13 At the end of the debate if any Member seconding a proposal (the substantive proposal or a proposed amendment) has reserved their seconder's speech to later in the debate, their speeches, of a maximum of 10 minutes, will be taken in the reverse order in which the motions were proposed and seconded.

7.14 When the debate has concluded the Leader of the Council, as the proposer of the substantive motion, and any Group Leader or Member not in a Group who has proposed an amendment will have a right of reply. Each speaker will be taken in the reverse order in which the motions were proposed and seconded, with the Leader of the Council having the last right of reply on behalf of the Executive. Any speaker with a right of reply has up to 10 minutes to respond.

7.15 When the debate has concluded, the Chair will if they think fit, sum up the debate before putting the amendments to the vote. In doing so they may request the Chief Financial Officer to draw the attention of the meeting to any relevant factors.

7.16 The Chair will then put the amendments to the vote in the order of the amendments proposed by the largest Opposition Group Leader first, followed by the next largest etc. Each amendment will be voted on in turn, with a recorded vote being taken, and administered by the Democratic Services Officer, on each amendment.

Some proposed amendments may impact on others and there may be inter dependencies. For example, if one amendment is lost it may result in others automatically being lost, whilst some amendments may have no impact on others and may stand alone regardless of the outcome of voting on other amendments. The Chief Financial Officer will advise accordingly and the Chair may adjourn the meeting to facilitate the provision of that advice.

- 7.17 Following the conclusion of the voting on the amendments, the Chief Financial Officer will confirm how the individual amendments that have been carried affect the Council Tax proposal as necessary.

There may be a need for a short adjournment to allow for the preparation of the Council Tax resolutions to reflect the budget proposals as amended/if amended to be printed and circulated prior to the substantive vote.

- 7.18 Once the amendments have each been voted upon and determined, the Chief Financial Officer will clarify any amendments that have been agreed and how they affect the budget. The Chair will then put the substantive motions, as amended if they have been amended, to the Council for a vote. A recorded vote will be taken and recorded by the Democratic Services Officer present.

- 7.19 If the budget proposal is accepted without amendment by Council, the Council may make a decision which has immediate effect. If the budget proposal is amended, and is approved as amended by full Council, the Leader of the Council will be asked by the Chair if they accept the budget as agreed by Council.

If the Leader of the Council confirms that they do accept the budget proposals as amended by Council, the Council decision will have immediate effect.

If the Leader of the Council does not accept the budget proposal as amended and agreed by the Council, the matter will be referred back to the Executive for further consideration and revised Executive proposals will need to be submitted to the Council at a future meeting; this will cause an inevitable delay to the lawful setting of the budget and the Council Tax and the associated consequences of such a delay will need to be considered.

## Part 6: Code and Protocols

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### 6A: Member Code of Conduct

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#### 1.0 Introduction

The Council has a duty to promote and maintain high standards of conduct by members and co-opted members of the Council, and formally adopt a code of conduct, in accordance with the *Localism Act 2011*.

#### 2.0 Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of the Councillor and in Local Government.

#### 3.0 Definitions

For the purposes of this Code of Conduct, a “Councillor” means a member or co-opted member of the local authority. A “co-opted member” is defined in the *Localism Act 2011 Section 27(4)* as “a person who is not a member of the authority but who

- 3.1 is a member of any committee or sub-committee of the authority, or;
- 3.2 is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

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

#### 4.0 General Principles of Councillor Conduct

Everyone in public office and all who serve the public or deliver public services, including Councillors and local authority officers, should uphold the Seven Principles of Public Life, also known as the Nolan Principles, (see Appendix A).

Building on these principles of selflessness, objectivity, accountability, openness, honesty and integrity and leadership, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in Councillors, on all occasions a Councillor shall:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of Councillor.
- impartially exercise their responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest.

These general principles have been incorporated into the obligations of the Code of Conduct as set out below.

## **5.0 Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including at face-to-face meetings, at online or telephone meetings, in written communication, in verbal communication, in non-verbal communication and in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **6.0 Standards of Councillor Conduct**

This section sets out the obligations (in bold below), which are the minimum standards of conduct required of a Councillor. Should a Councillor's conduct fall short of these standards, a complaint may be made against them, which may result in action being

taken.

Guidance is also included below each obligation to help explain the reasons for the obligations and how they should be followed.

## **6.1 Respect**

### **A Councillor:**

**6.1.1 Shall treat everyone, including other Councillors and members of the public with respect.**

**6.1.2 Shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from everyone. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the relevant social media provider and/or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor / Officer protocol.

## **6.2 Bullying, Harassment and Discrimination**

### **A Councillor:**

**6.2.1 Shall not bully any person.**

**6.2.2 Shall not harass any person.**

**6.2.3 Shall promote equalities and not discriminate against any person.**

Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on

at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Legislation places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **6.3 Impartiality of Officers of the Council**

A Councillor:

#### **6.3.1 Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral, (other than political assistants where applicable). They should not be coerced or persuaded to act in a way that would undermine their neutrality. A Councillor may question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, a Councillor must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **6.4 Confidentiality and access to information**

A Councillor:

#### **6.4.1 Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless -**

- i. they have received the consent of a person authorised to give it; or**
- ii. they are required by law to do so; or**
- iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
- iv. the disclosure is reasonable and in the public interest; and also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.**

#### **6.4.2 Shall not improperly use knowledge gained solely as a result of their role as a**



**Councillor for the advancement of themselves, their friends, family members, employer or business interests.**

**6.4.3 Shall not prevent anyone from getting information that they are entitled to by law.**

**6.4.4 When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.**

**6.5 Disrepute.**

A Councillor:

**6.5.1 Shall not bring their role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions.

**6.6 Use of position**

A Councillor:

**6.6.1 Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.**

A Councillor should not take advantage of opportunities, responsibilities and privileges to further their own or others' private interests or to disadvantage anyone unfairly.

**6.7 Local authority Resources and Facilities**

A Councillor:

**6.7.1 Shall not misuse council resources.**

**6.7.2 Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.**

A Councillor may be provided with resources and facilities by the local authority to assist them in carrying out their duties as a Councillor. Examples may include office support, stationery, equipment such as phones, computers and transport and access and use of local authority buildings and rooms.

## **6.8 Compliance with the Code of Conduct**

A Councillor:

- 6.8.1 Shall undertake Code of Conduct training as required by the local authority.**
- 6.8.2 Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination.**
- 6.8.3 Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 6.8.4 Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.**

It is extremely important for a Councillor to demonstrate high standards, to have your actions open to scrutiny and not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.

## **7.0 Registering and Declaring Interests**

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

### **7.1 Disclosable Pecuniary Interests**

A Councillor must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see Appendix B), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You must disclose the interest at any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'. If it is a 'sensitive interest', you must

disclose the fact that you have an interest but do not have to disclose the nature of it. (A sensitive interest is an interest which, in the opinion of the Monitoring Officer, if disclosed, could lead to the Councillor, or a person connected with them, being subjected to violence or intimidation.) You are personally responsible for deciding whether or not you should disclose an interest in a meeting.

Following any disclosure of an interest not on the Council's register, or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, by the Monitoring Officer, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

Where you have a disclosable pecuniary interest on a matter to be considered or being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

You must ensure that your register of interests is kept up to date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Appendix B is a criminal offence under the Localism Act 2011.

## **7.2 Other Registerable Interests**

You must also register your other registerable interests with the Monitoring Officer within 28 days of taking office and ensure these are kept up to date by notifying any changes within 28 days.

Where a matter arises at a meeting which *directly relates* to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Appendix C), you must disclose the interest. Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to

deal with it.

### **7.3 Non-Registerable Interests**

Where a matter arises at a meeting which *directly relates* to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests at 7.1 above), or the financial interest or wellbeing of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a sensitive interest you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which *affects* your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under Other Registrable Interests as set out at 7.2 above and appendix C you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have a Non-Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **8.0 Gifts and Hospitality**

A Councillor:

- 8.1** Shall not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 8.2** Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

**8.3 Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.**

The presumption should always be not to accept significant gifts or hospitality but there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

You do not need to register gifts and hospitality which are not related to your role as a Councillor.

It is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor.

## **Appendix A – The Seven Principles of Public Life**

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**Appendix B: Disclosable Pecuniary Interests**

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<p><b>Employment, office, trade, profession or vocation</b></p>	<p>Any employment, office, trade, profession or vocation carried on for profit or gain.</p> <p>Please note that the Monitoring Officers of the Oxfordshire Authorities do consider receiving a basic or special responsibility allowance further to council duties to be a disclosable pecuniary interest and you are required to register your membership of another authority under Section 1.</p>
<p><b>Sponsorship</b></p>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>

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<p><b>Contracts</b></p>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<p><b>Land and Property</b></p>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<p><b>Licenses</b></p>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.</p>
<p><b>Corporate tenancies</b></p>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>



<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issues share capital of that class.
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\* 'Director' includes a member of the committee of management of an industrial and provident society.

\* 'Securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

### **Appendix C: Disclosure of Other Registrable Interests**

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any Body of which you are a member or are in a position of general control or management and to which is
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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**6B: Member/Officer Protocol**

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**Preamble**

1. Mutual respect and trust between Members and Officers may seem obvious, but what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
2. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers:
  - to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities (that is, who does what);
    - to avoid conflict; and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and a Council's own practices; and
  - to lay down procedures for dealing with concerns by members or officers.
3. This protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.
4. Members and officers must at all times observe this protocol. It should not be considered simply a list of do's and don'ts but also as guidance on cultural and behavioural matters to ensure that the Council benefits from good working relationships and achieves its full potential in delivering services to the community it serves.
5. In addition to this protocol all Publica staff are required to comply with Publica's Business Conduct Policy.

**Definitions**

6. Unless the context indicates otherwise, references to the term "Council" includes Full Council, the Executive, all Committees, subcommittees and task/working groups.
7. Unless the context indicates otherwise, the terms "member" and "members" includes co-opted members as well as elected councillors.
8. "Officers" and "staff" mean all persons employed by the Council and Publica

“Senior officer” is as defined within the Constitution

“Designated Finance Officer” means the Chief Finance Officer (section 151 Officer) exercising the duties prescribed by law for the financial administration of the Council

“Monitoring Officer” means the officer exercising the duties prescribed by law for the ethical and legal administration of the Council.

### The role of members

9. Members have a number of elements within their role:

- as politicians with political values and support for the policies of the group to which they belong;
- as representatives of all the electorate of the Council’s administrative area, and their ward in particular;
- as community leaders for the whole population of the administrative area;
- as an elected member with responsibility for the administration and service delivery to the community as a whole; and
- in personal life where they may have to live and/or work in the area in which they serve.

There is a need for members to be alert to the potential for conflicts of interest, which may arise within their role. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

10. Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget. In particular, members should: Define the core values of the Council as an organisation, and with assistance from officers, identify the priority objectives

11. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

12. Every elected-member represents the interests of, and is an advocate for, their Ward and individual constituents. They represent the Council in the Ward, respond to the concerns of constituents, meet with partner agencies, and often serves on local bodies.

13. Some members have roles within the Council relating to their position as members of the Executive, scrutiny committees or other committees and subcommittees of the Council

- a. The Leader and Executive collectively decide the day-to-day operational issues not delegated to officers and recommend framework policies and strategies to

Council.

- b. Members serving on scrutiny and review committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues.
- c. Members who serve on other committees and sub-committees collectively have delegated responsibilities, for example, deciding quasi-judicial matters that, by law, are excluded from the remit of the Executive.

14. Some members may be appointed to represent the Council on local, regional or national bodies.

15. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest. The political party values and aspirations should not be formally exercised by a political whip on members undertaking the scrutiny function.

16. Members will endeavour to give responses within a reasonable time, for example, 5 working days to enquiries from members of the public.

### **The rights and duties of members**

17. Members have no authority to instruct officers other than:

- through the formal decision-making process of the Executive, the committees and Council; and
- to request the provision of consumable resources provided by the Council for members' use;

18. Unless authorised by this Constitution under the Executive system individual members cannot authorise nor initiate actions nor certify financial transactions, nor enter into a contract on behalf of the Council. However, members who are appointed to certain positions may have to sign authorisations as required by secondary legislation or other requirements of this Constitution.

19. Members must avoid taking actions, which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer and/or the Chief Finance Officer.

20. A member should not criticise the conduct or capability of an officer at any meeting of Council or committee. Neither should a member write letters or give interviews to the press criticising officers. This is because of the long-standing convention in public service that officers do not have the same means of responding to such criticisms in public. If a member has a concern regarding an officer this should be addressed to a senior officer.

21. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that officers change their professional advice. Members must respect that the officers have a duty to correct information given to Members during the decision-making process.

22. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business.

Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.

23. Members have a duty under their code of conduct:
  - To promote equality by not discriminating unlawfully against any person, and
  - To treat others with respect.
24. Under the code, a member must not when acting as a member or in any other capacity:
  - Bring the Council or their position as a member into disrepute; or
  - Use their position as a member improperly to gain an advantage or disadvantage for themselves or any other person.

### **The role of officers**

25. Officers should work in partnership with members to deliver the services to the community, to the standard set by the Council. Officers should be committed to the Council as a whole and must not show any bias, partiality or allegiance to any political group or grouping. Officers must always provide advice and information in an impartial and professional manner and in a manner that does not compromise their political neutrality.
26. Officers are employed to undertake the functions of the Council (including management responsibilities) and to help members attain their policy goals. Where operational decisions are delegated to the officers, they must exercise that authority in accordance with the adopted policy and values of the Council. Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors and have a duty to advise members that certain courses of action desired by members cannot be adopted. Officers must not enter into a debate during the decision-making process unless to correct factual information or in response to a chair's request for an opinion.

### **The rights and duties of officers**

27. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
28. Officers must be alert to issues, which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
29. Officers must also:
  - a. Respond to members' requests for information promptly but within 5 working days (either with the information or an explanation why the period will be longer).
  - b. Act with honesty, respect, dignity, courtesy and integrity at all times.
  - c. Provide support and learning and development opportunities for members to assist members perform their various roles, and
  - d. Respect confidences.

### **The relationship between members and officers: general**

30. Members and officers should inform the Monitoring Officer of any relationship which might be perceived as unduly influencing them in their respective roles.

31. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision that directly affects the officer on a personal basis, or vice versa.

32. There are particular characteristics of the use of e-mails, notably its immediacy, which can create a greater sense of 'bombardment' or 'harassment'. Practical guidance for members and officers on the use of emails is referred to later in this protocol under the heading "Correspondence".

33. Officers' work priorities are set and managed by senior managers' not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be unduly disrupted or asked to exceed the bounds of authority they have been given by their managers. Meetings should be arranged to a timescale that enables officers to complete tasks assigned to them and not at a frequency which disrupts other tasks set by the Council. Except when the purpose of an enquiry is purely to seek factual information on day-to-day matters, members should normally direct their requests and concerns to a senior officer, at least in the first instance.

34. Officers will do their best to give timely responses to members' enquiries within 5 working days but should not have an unreasonable volume of requests placed on them.

35. Officers shall not discuss with a member personal matters concerning themselves or another individual employee. This does not prevent an officer raising, on a personal basis, and in their own time, a matter relevant to a Council function with their ward member.

### **Relationships between Officers and Executive Members, Chair's of Committees and the Leader**

36. It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Executive, Chief Executive and Senior Officers and between the Chair of a committee and officers. However, such relationships should never be allowed to become close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

37. Officers frequently write reports having undertaken background research and professional and technical appraisals of proposals.

38. These reports are then presented by the Executive Member with Portfolio, with the assistance of officers where necessary.

39. Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of a report submitted in the Member's name.

40. The principles set out in paragraphs 41 and 42 below apply to such elements of the report.

41. Where an officer wishes to consult an Executive Member or Chair as part of the preparation of a report to a decision-making body under the Council's constitution, the following principles will apply. The Executive Member or Chair may ask the report author:

- To include particular options;
- To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
- To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
- To check any estimate of costs or savings.

42. The Executive Member or Chair may not ask officers:

- To exclude any option contained in the draft report;
- To exclude or alter the substance of any statement in the draft report of any officer's professional opinion;
- To alter the substance of any recommendation that compromises the officer's integrity or would result in illegality;
- To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.

43. Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

### **Scrutiny Arrangements**

44. Executive arrangements raise particular issues for local authority employees because:

- The advice which officers have given to the Executive, its Members or to any group may be subject to scrutiny and examined by a Scrutiny Committee.
- Officers may have written reports for presentation by an Executive Member with Portfolio or provided advice to the Executive. Where such a decision is subject to scrutiny by a Scrutiny Committee, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
- The Scrutiny Committee's and their members will need active assistance from officers if they are to perform their role of scrutinising the Executive effectively.

These factors will require understanding by Members of the role that officers have to perform.

### **Overview and Scrutiny**



45. The scrutiny role of the Council is performed by three Scrutiny Committees and the Audit and Governance Committee. Senior Officers may need to attend Scrutiny Committees to give evidence and assist in its scrutiny.

46. Where an employee /Senior Officer is required to attend before a Scrutiny Committee, to report to it or provide evidence for it, it is the employee's duty to do so, or to explain why he or she is unable or unwilling to do so. If after considering that explanation the committee insists on the information being provided the employee must do so.

47. Where a Scrutiny Committee has resolved to undertake a review it is the duty of Senior Officers to co-operate fully with the review. This duty extends beyond merely answering the Committee's questions and involves a requirement to assist the Committee in addressing the right questions and seeking the information which may be required to help them in their work.

### **Party group meetings and Officers**

48. Party Group Meetings play an important role in the political management of the Council. They provide a useful forum to keep Members up to date with Council and Group business. They can assist in the smooth running of meetings especially in agreeing questions and motions for Full Council Meetings.

49. Senior officers may properly be asked to provide advice and information on matters concerning Council business by party groups but should not contribute to deliberations of the group. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on their behalf. In their dealings with party groups, officers must treat each group in a fair transparent and even-handed manner. If one group requests particular support then other groups will be offered the opportunity to have similar support.

50. Officers have the right to refuse such requests, and will not attend a meeting of a party group where some of those attending are not members of the Council, unless specific authority has been given by the Chief Executive who has the discretion to discuss the request with other group leaders.

51. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

52. Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer does not confer formal status on such meetings in terms of Council business and must not be interpreted as doing so.

53. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this will not be a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

54. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because they have attended or provided information to the meeting of the group.

55. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

56. Members must not do anything which compromises or is likely to compromise officers' impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.

57. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.

#### **Local members and officers**

58. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

59. This requirement is particularly important:

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during an overview and scrutiny investigation.

60. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.

61. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:

- an officer may attend but is not obliged to do so, and
- the meeting may be held in Council-owned premises.

62. No such meetings should be arranged or held in the immediate four week run-up to Council elections, i.e. within the period following a declaration of an election or of a vacancy.

63. Officers must never be asked to attend ward or constituency political party meetings. Whilst support for members' ward work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public, and
- officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.

64. It is acknowledged that some Council staff may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

65. In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

### **Members' access to documents and information**

66. This part of the protocol should be read in conjunction with the [access to information rules](#).

67. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- it is in the public domain, and
- it is not barred by the Data Protection Act from being given.

68. It will be the task of senior officers to ensure that adequate systems to communicate information etc. are in place and other officers are made aware of the need to provide the information. If a member has need of specific information, other advice or particular support, this should be channelled through the senior officer.

69. Every member of a committee has a right to inspect documents about the business of that committee or subcommittee.

70. A member who is not a member of a specific committee or subcommittee may have access to any document of that specific part of the Council provided:

- the document is in the public domain; or
- they can demonstrate a reasonable need to see the documents in order to carry out their role as a member (the "need to know" principle); or
- the documents do not contain "confidential" or "exempt" information as defined by the law, e.g. personal information covered by the Data Protection Acts; and
- the subject matter is one in which they do not have a personal or prejudicial interest as defined in the members' code of conduct.

71. Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek their advice if in any doubt about the reasonableness of a member's request.

72. Members may approach any Senior Officer for information, explanation or advice about that group's functions, as they may reasonably need to know in order to assist them in discharging their role as members of Council, being aware that personal information may not be disclosed without proper authorisation.

73. Information that is of a sensitive nature, e.g. personal data, commercially confidential, etc. which is given to a member or officer must only be used for the purpose for which it was requested, i.e. the better performance of Council duties, and should not be used for personal benefit, including benefit to family, friends and business. Information, which is restricted in circulation, for example, confidential, commercially sensitive or exempt, must not be disclosed by the member to any other party. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.

74. When requested to do so, officers will keep confidential from other members advice requested by a member, save the Monitoring Officer if the matters involve maladministration but in that case the source of the information will be kept confidential.

75. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

#### **Media relations**

76. Press releases or statements issued by the Council will be factual and consistent with Council policy. They cannot be used to promote a party group. Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

77. If a member is contacted by, or contacts, the media on an issue, they should:

- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist;
- not divulge advice given personally to that member by an officer; and
- not jeopardise the necessary trust between officers and members by making statements apportioning blame to officers for decisions made by members or personally criticise the officer for the advice he gave. Qualified privilege may not apply to defamatory statements made against officers.

#### **Emails**

78. Emails between an individual member and an officer should not be copied to another member unless there is a genuine need to do so. Where correspondence is copied, this should always be made explicit, i.e. there should be no "blind" copies. Officers may forward copies to other (relevant) officers where specific action is required to be taken or explained.

79. The content of all emails should be checked to ensure that it does not offend in its tone and that it is clear and unambiguous.

80. Emails which are capable of creating legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.

#### **Access to premises**

81. Members and officers have a right of access to Council owned land and premises to fulfil their duties. Members have no right of access to any other private land, save that they own.

82. When invited to attend at any premises, members should:

- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

#### **Use of Council resources**

83. Officers and members must comply with the Information Security Policy and [Use of Resources Policy](#).

#### **Interpretation, complaints and allegations of breaches**

84. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Chief Executive, Monitoring Officer or Deputy Monitoring Officer.

85. Members must not criticise, personally attack, or abuse officers in a public forum. A member who is unhappy about the actions taken by, or conduct of, an officer should follow the adopted internal procedures.

86. The Chief Executive is responsible for the disciplining of retained staff and processes have been agreed with the trade unions, which allow a fair and thorough review of conduct. It is important that these procedures are adhered to in cases where an officer's conduct gives cause for concern. Publica has its own arrangements in place for the disciplining of Publica employees which will be applied when required.

87. Officers who have concerns about a member's conduct should initially refer the issue to their line manager, the Chief Executive, Monitoring Officer or a Senior Officer who will (where appropriate) attempt to resolve the matter informally. If the issue remains unresolved, or informal action is not suitable, the Chief Executive, Monitoring Officer or Senior Officer will take appropriate action via the Council's internal processes, including the Member Code of Conduct and this Protocol.

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## **6C: Appointments of Members to Outside Bodies**

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There may be occasion where members are appointed to outside bodies.

Where such appointments are made the member appointed is required to provide an annual written report to Council setting out the work undertaken by the organisation. The report may include items such as; the continuing benefit of personal representation, an analysis (not necessarily a financial assessment) of the achievements of the organisation, and its effectiveness in delivering the outcomes/outputs required by the Council.

This report should be submitted to Democratic Services in March each year and will be circulated to all members of the Council.

Any member may refer these reports, or issues raised by the reports, to the Overview and Scrutiny Committee if further consideration is felt necessary.

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## **6D: Protocol on the Use of Council Facilities and Resources by Councillors**

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### **1. Introduction**

1.1 The Council provides facilities and resources to assist members in carrying out their duties as councillors or as holders of an office within the Council.

1.2 The Members Code of Conduct makes some provision regarding the use of resources.

1.3 This protocol seeks to build on the Code of Conduct and explain the limitations placed on the use by Members, of the Council's facilities and resources.

### **2. Use of facilities and resources**

2.1 Members may use Council facilities and resources for political purposes, in connection with the following business;

- (a) holding ward surgeries;
- (b) dealing with correspondence from constituents;
- (c) communication group activities;
- (d) meetings between group members

2.2 The Council is prohibited from publishing any material of a party political nature and Members should ensure that when using or authorising the use by others of the Council's facilities and resources, that such facilities and resources are not used for purely political purposes and that the use of Council premises is restricted to premises available to the public generally and paid for at the full hire costs.

2.3 A Member's use of Council facilities and resources must not extend to political parties more generally. Use of Council owned premises for party political purposes (where such meetings are used to further the political aims and objectives of the party concerned) must be restricted to premises available to the public generally and paid for at the full hire costs.

2.4 In cases where 2.3 does not apply, such as political group meetings where the purpose includes Council business and is not solely to further political aims and objectives, then Members can make use of rooms available at the Council Offices, without charge provided that:

- (a) rooms are available for the required time;
- (b) meetings are restricted to the facilities opening hours. If Members want to hold meetings outside of these days/times then it must be agreed in advance with the Chief Executive and any expenses incurred must be met by the political party's funds and not Council funds;

- (c) Third parties may attend political group meetings held in the Council's offices, provided that the primary purpose of the meeting is the consideration of business relevant to West Oxfordshire District Council and not the political party.

2.5 Members must not use any Council facilities and/or resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and support of any political party or group activity or elections and campaigning.

### **3. Private/Personal Use**

3.1 As a general rule, facilities and resources paid for by the public purse and provided for use in Council business should only be used for Council business.

3.2 Members are required to adhere to the Council's Information Security Policies.

### **4. Complaints and allegations of breaches of this protocol**

4.1 Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with.

### **5. Further Guidance**

5.1 Further advice or clarification can be sought from the Monitoring Officer.

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## 6E: LOCAL PETITION SCHEME

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### 1.0 PETITIONS

The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know of their views and concerns.

Petitions may be submitted to the Council either by post, or electronically, or by being physically presented to the Council at a meeting of the full Council.

Petitions sent by post should be sent to the Monitoring Officer, c/o Democratic Services, West Oxfordshire District Council, Woodgreen, Witney, Oxfordshire, OX28 1NB.

Petitions can also be created, signed and submitted online to the Monitoring Officer at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk).

Petitions can be presented to a meeting of the full Council. (The dates of such meetings can be found at [www.westoxon.gov.uk](http://www.westoxon.gov.uk)). If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact Democratic Services on 01993 861522 at least 10 working days before the meeting and they will talk you through the process. Your petition will be accepted by the Council and you will be advised in writing, following the meeting, of the next steps. You will not have any right to address Council at a meeting where the petition is presented.

The Council will treat something as a petition, subject to it meeting the criteria at paragraph 2.0 below, if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

### 2.0 CRITERIA FOR A PETITION

Petitions submitted to the Council must include:

- a minimum of 500 signatories; and
- a clear and concise statement covering the subject of the petition. It should specifically state what action the petitioners request the Council to take; and
- the name, postcode and signature of any person supporting the petition, with the exception that signatures are not required on electronic petitions; and
- the contact details, including full name, address and email for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

Petitions which are considered, by the Monitoring Officer, to be vexatious, abusive or otherwise offensive or inappropriate, will not be accepted and the petition organiser will be informed of that fact together with reasons.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Monitoring Officer will write to the petition organiser to explain the reasons.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply, and the petition will not be accepted or dealt with in accordance with this scheme. Further information on all these procedures and how you can express your views is available at [www.westoxon.gov.uk](http://www.westoxon.gov.uk)

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

### **3.0 THE COUNCIL'S PROCEDURE FOR DEALING WITH A PETITION**

All petitions to the Council, regardless of how submitted, will receive an acknowledgement, from the Monitoring Officer to the petition organiser, within 10 working days of receipt. This acknowledgement will set out what the Council plans to do with the petition.

If the Council can do what the petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed.

The Petition will be accepted, provided it meets the criteria of paragraph 2.0 above, and will be published on the Council's website. The contact details of the petition organiser will not be so published. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

#### **3.1 The Council's response to a petition**

The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;

- holding a meeting with petitioners;
- referring the petition for consideration to one of our Scrutiny Committees;
- calling a referendum;
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If your petition is about something over which the Council has no direct control, or that a different Council is responsible for, the Monitoring Officer will advise the Petition Organiser to whom the representations should be directed to, or the Council may consider making representations on behalf of the community to the relevant body. More information about the services for which the Council is responsible can be found at [www.westoxon.gov.uk](http://www.westoxon.gov.uk).

### **3.2 Petitions with over 500 but less than 1,500 signatories**

In circumstances where a petition contains more than 500 signatures, and so qualifies as a petition, but has insufficient signatories to trigger a Council debate, the Leader of the Council will determine what action will be taken in response to the Petition.

The Petition will be referred to the Leader of the Council, together with an Officer report, which will be published for 5 working days on the Council's website, before the Leader makes their decision. The decision will be contained in a Decision Notice which will be sent to the petition organiser and published on the Council's website.

The Leader may take whatever professional Officer advice, and undertake whatever consultation they deem appropriate, in reaching their decision.

### **3.3 Petitions with over 1,500 signatories**

If the petition has 1,500 signatures it will trigger a Council debate. The acknowledgment will confirm this and advise the petition organiser when and where the meeting will take place. The Council will endeavour to consider the petition at its next meeting, or as soon as practicable thereafter. If the petition needs more investigation, we will tell you the steps we plan to take.

At the relevant Council meeting, the petition organiser will be given five minutes to present the petition to Councillors. Councillors will receive an Officer report with the petition, setting out various options and recommendations. Councillors will consider the petition, debate it, in accordance with the usual rules of debate, and make a resolution as to how to respond to the Petition. The Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one within the remit of the Council's Executive, the Council will refer the matter to

the Executive for a decision but may make recommendations to the Executive to inform their decision.

The petition organiser will receive written confirmation of the Council's resolution regarding the petition. This confirmation will also be published on our website.

### **3.4 E-petitions**

E-petitions can be accessed and submitted via our website [www.westoxon.gov.uk](http://www.westoxon.gov.uk)

## **4.0 REVIEW OF PROCESS**

If you feel that the Council has not dealt with your petition properly, you should contact the Monitoring Officer who will review the process, and respond to you within 10 working days.

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## 6F PROTOCOL ON CONFERMENT OF HONORARY TITLES

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### 1.0 INTRODUCTION

The Council may, under section 249 of the Local Government Act 1972, confer the title of Honorary Alderman or Honorary Alderwoman on Councillors who have, in the opinion of the Council, rendered eminent service to it, as former Members of the West Oxfordshire District Council.

### 2.0 PROCEDURE

The Chair of the Council, the Leader of the Council, or any Leader of a Political Group of the Council, may bring a motion to Council seeking a resolution that the Council agree to convene a Special Council meeting to consider conferring the honorary title upon any former Member.

Such motions should be brought to the Annual Council meeting. Consultation should be undertaken in advance with all Political Group Leaders, who shall consult with their Group, and any non-grouped Members.

Nominations should be restricted to former Members of the Council who have retired as Councillors and chosen not to stand for re-election to West Oxfordshire District Council. Nominations should be in respect of former Members who it is understood are unlikely to stand for election again in the future and intend to retire from political life.

Such a decision to confer such a title, may only be made at a specially convened Council meeting for that purpose. Such a resolution may only be made at the specially convened Council meeting, to confer the title, if passed by not less than two thirds of the members voting and present at that meeting.

### 3.0 CRITERIA

Consideration, by the Council, of conferring the title of Honorary Alderman or Honorary Alderwoman upon a former Member, will be in accordance with this Protocol.

Two thirds of Members present and voting at the specially convened Council meeting for conferring the title, must be satisfied that the former Member has provided eminent service to West Oxfordshire District Council.

## Constitution of West Oxfordshire District Council

In reaching this conclusion, Members may take into account various issues including, but not limited to, length of service to the Council, roles appointed or elected to within the Council, and any other notable contribution made.

Any conferment of such honorary title can only be made if the Council indicates, by a vote of not less than two thirds of members present and voting, that it considers the former Councillor has provided eminent service to the West Oxfordshire District Council.

Any former Member who has the title of Honorary Alderman conferred upon them by the Council, is entitled to attend Council meetings, other than when the Council has resolved to go into private session. They do not have a right to speak, participate in a debate or vote on any item at Council meetings.



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## 6G MONITORING OFFICER PROTOCOL

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### 1.0 The Monitoring Officer

The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.

The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

### 2.0 Introduction

The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Councils;
- Report cases where the Ombudsman has found maladministration on the part of the Council;
- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

### 3.0 Appointment

The Monitoring Officer is appointed by Council, and may or may not be an employee of West Oxfordshire District Council. Where the Monitoring Officer is an employee of the Council and leaves that employment, they automatically cease to be the Monitoring Officer for the Council. The Council may appoint an Officer as Interim Monitoring Officer pending a permanent appointment.

The Monitoring Officer is a Statutory Chief Officer in line with Part 5K of the Constitution and is a direct report of the Chief Executive. Their appointment must therefore be made in accordance with the Officer Employment Procedure Rules at Part 5K of the Constitution.

#### **4.0 Personal Responsibility**

The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, (not the Council), will nominate an Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where they are unable to act as a result of absence or illness; and
- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external lawyer to conduct a particular investigation.
- Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

#### **5.0 Functions**

The functions of the Monitoring Officer are as follows:

##### **5.1 Statutory Functions**

- To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees, or any Member or Officer, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) Local Government and Housing Act 1989.
- To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any of its Committees, Sub-Committee, or any Member or Officer, has given rise to maladministration or injustice, in accordance with section 5(2)(b) Local Government and Housing Act 1989.
- To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011.
- To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

##### **5.2 Non-Statutory Functions**

- Ensure that the Council has effective governance arrangements in place.
- Providing an effective, robust and ongoing programme of elected member training and development.
- Contribute to the corporate management of strategic risks.
- Provide and lead effective scrutiny of the Council.
- To monitor and uphold the Constitution.

- To act as principal Legal Advisor to the Council and the Executive.
- To act as principal Legal Advisor to the Standards Sub-Committee, in particular when sitting as a Local Hearing Panel, to determine allegations of breach of Code of Conduct.
- To provide advice to Members on conduct and ethics matters generally.
- To consult regularly with the Chief Executive, the Chief Finance Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.
- To investigate any applications for dispensation from a Member and to report and recommend to the Council as appropriate.
- To report to the Council on resources which they consider they require for the discharge of their functions.
- Responsibility for the service areas of Legal Services, Democratic Services, Member Development and Elections.

## **6.0 Advice and Decisions**

The Monitoring Officer's responsibilities fall into 3 distinct categories:

### **6.1 Advice**

A Member may seek advice from the Monitoring Officer, for example concerning their interests. The Monitoring Officer will provide their advice but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice.

### **6.2 Decisions**

Where the proposal, action or omission would cause the Council to act unlawfully, the Monitoring Officer may be required to decide whether there is any illegality that they are required to report to Council which would have the effect of suspending implementation of the action or decision until their report has been considered.

### **6.3 Advice and Decision**

In some case, for example a Member conduct matter, the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer.

## **7.0 Seeking the Advice of the Monitoring Officer**

The Monitoring Officer will be most effective if they are able to advice on any issue at an early stage of policy formulation or implementation. Officers and Members should therefore routinely consult the Monitoring Officer in respect of new policy proposals and action programmes.

Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission. Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative means of achieving the objective or rectifying any deficiency. The Monitoring Officer will only make a report on illegality public where the relevant Officer or Member progresses the matter despite having been advised not to by the Monitoring Officer. Before reporting to Council

on any illegality or maladministration, the Monitoring Officer will consult with the Chief Executive and Chief Finance Officer.

The Monitoring Officer is responsible for advising Members on conduct and ethics matters and any Member can seek the confidential advice of the Monitoring Officer about their own position. Subject to any conflict of interest with the Council, the Monitoring Officer will advise whether in their view the conduct would amount to a breach of the Code, and will not disclose that advice unless required to do so by law or as part of an investigation into an alleged breach of the code. Members are encouraged to seek the advice of the Monitoring Officer concerning the conduct of another Member, prior to making a formal complaint, and they should do so in writing. The Monitoring Officer may make contact with the Member complained of, before responding.

## **8.0 Investigation**

The Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of code of conduct.

Where the Monitoring Officer is considering a complaint of a breach of the code of conduct they will follow the Council's procedures and arrangements set out for the assessment and investigation of such complaints.

Where the Monitoring Officer considers a complaint of illegality or maladministration and determines that the proposal, act or omission does, or would, give rise to maladministration or illegality, they shall seek to agree an alternative and lawful course of action and/or make a statutory report.

Upon receiving any complaint of illegality, maladministration or breach of the code of conduct, the Monitoring Officer will, where appropriate, seek to resolve the matter amicably and informally, but there may be circumstances where the matter is not appropriate for local resolution, is incapable of so being resolved, or if of such seriousness that a statutory report is the only appropriate response.

## **9.0 Reporting**

Where the Monitoring Officer is of the opinion that illegality or maladministration has occurred or will occur, they will, after consulting with the Chief Executive and Chief Finance Officer, report to Council. Alternatively, to negate the need for a separate statutory report, they are also able to add their written advice to the report on the matter by any other Council officer, and/or to provide oral advice at any meeting of the Council.

## **10.0 Advice to Individual Members**

Wherever possible the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a political group of the Council. The Monitoring Officer is designated as statutory officer to the Council, rather than to any individual Member or group of Members. Where the Monitoring Officer considers that providing advice to a Member is incompatible with their role as advisor to the Council, they may decline to provide such advice but can, at their discretion, secure such advice from an independent source at the Council's expense.

## 11.0 Monitoring and Interpreting the Constitution

The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.

In order to conduct such monitoring and review, the Monitoring Officer may:

- Consult any Member or Officer, other organisations and stakeholders.
- Observe meetings of Members and/or Officers at any level.
- Undertake an audit trail of a sample of decisions.
- Record and analyse issues raised with them by Members, Officers, the public or stakeholders.
- Compare practices in this Council with those in other comparable authorities, or national examples of best practice.
- Consider any relevant reports and recommendations of the Auditors and other regulatory agencies.

The Monitoring Officer will maintain an up to date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of law, decisions made by Council and any other minor and consequential amendments.

The Monitoring Officer is responsible for advising on the interpretation of the Constitution.

## 12.0 Resources

The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.

For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:

- The right of access to all documents and information held by or on behalf of the Council;
- The right of access to any meetings of Members or Officers of the Council, other than political group meetings.
- The right to require any Officer or Member of the Council to provide an explanation of any matter under investigation.
- A right to report to the Council and to the Executive, including the right to present a written report and to attend and advise verbally.
- The right of access to the Chief Executive and the Chief Financial Officer.
- The right, following consultation with the Chief Executive and the Chief Financial Officer, to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- The right to obtain legal advice at the Council's expense from an independent external source.

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## 6H OFFICER DECISION MAKING PROTOCOL

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### 1.0 INTRODUCTION

This document sets out the legal framework for decision making and establishes a system to document decisions taken by Officers under delegated authority, to ensure a robust process of accountability, to promote transparency and to ensure legal compliance.

### 2.0 TYPES OF OFFICER DECISIONS

The significance, in terms of value or impact, of decisions taken under delegated authority will vary and Officers authorised to make delegated decisions will need to exercise judgment in determining whether decisions are significant enough to require placing in the Executive Work Programme (if they are Executive) and whether they are significant enough to require formal recording.

To assist in this process, decisions are defined as either Key, Major or Administrative.

A key Executive decision should be included in the Executive Work Programme, regardless of whom the decision maker may be. This must be published for 28 days prior to the decision being made.

Key and major decisions, regardless of whether they are Executive or not, must be properly recorded in accordance with this protocol. Where such decisions are Executive, it is a legal requirement to formally record them, and they may be challenged through the call in process. Where they are non-Executive, it remains necessary to formally record them as, although they cannot be called in, they could be challenged externally through an appeals process, the Courts and Tribunals or the Local Government and Social Care Ombudsman.

#### 2.1 Key Decision

A key decision is defined in Part 3A of this Constitution.

A key decision is an Executive decision that is likely to:

- Result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the authority.

The Council has decided that something is financial significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more, or generates income or savings of £150,000 or more.

In considering whether a decision is likely to be 'significant', the decision maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the Council to a significant number of people living or working in the locality affected. The following should be considered:

- The effect on businesses and communities.
- The expectation of the public and councillors as to whether the decision should be taken by the Executive.
- The anticipated interest of the public and of councillor's
- The effect on other council services and function.

It is for the Chief Executive, having taken advice from the Monitoring Officer, to decide which decisions should be treated as Key Decisions.

## **2.2 Major Decisions**

Major Decisions are all those that are not categorised as either Key Decisions or Administrative Decisions.

## **2.3 Administrative Decisions**

Administrative decisions are decisions that are ancillary to the delivery of the function such as the:

- Ordering of stationery;
- Publication of statutory notices; or
- Deployment of staff.

As a guideline, administrative decision will often relate to expenditure, income or savings, of less than £10,000, but before determining the type of decision, it is also necessary to consider the impact, risk and consequences, as well as value.

## **3.0 AUTHORITY TO MAKE AN OFFICER DECISION**

Before taking any decision, an Officer should ensure that they have appropriate delegated authority in writing, and reference should be made to the Scheme of Officer Delegations in Part 4 of the Constitution. Alternatively a specific delegation may have been made to an Officer via a specific resolution of the Executive, the Council or one of its Committees.

## **4.0 NOTICE OF THE MAKING OF AN OFFICER KEY DECISION**



In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, all proposed key decisions need to be published on the Council's website, as part of the Executive Work Programme for at least 28 clear days prior to the date on which the decision is made. Officers proposing to make a key decision and needing to place an item on the Council's website should provide details to Democratic Services via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) at least 30 days prior to the date on which the decision is to be made.

There may be occasions where it has not been possible to give notice of a key decision. When this occurs the following process must be followed:

- At least 5 clear working days before the decision is to be made the Monitoring Officer must inform (by written notice) the Chair of the Overview and Scrutiny Committee.
- A copy of the notice must be placed on the website and made available for public inspection.
- The Monitoring Officer will prepare and publish a notice on the website setting out the reasons why the item did not appear on the Executive Work Programme.

If it has not been possible to give 5 clear working days' notice of a key decision, the agreement of the Chair of the Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision may be made. The decision notice, in such circumstances, must include their views, together with an explanation as to why the matter is urgent, why it cannot await the next edition of the Executive Work Programme and why it missed the last edition.

### 5.0 OFFICER REPORT

A key officer decision should only be taken after consideration of an internal report, which should at the very least include:

- The Wards affected by the proposed decision;
- The name and title of the Officer writing the report;
- The title of the report;
- The designation as a key decision;
- Whether the report contains exempt or confidential information;
- Details of any consultation taken and representations received;
- The Officer's recommendations and reasons;
- Any alternative options considered;
- Any professional advice from legal or finance officers.

There is no requirement for any such Officer report to be published, although it is good practice to retain a copy of it for a complete audit trail of the decision making process.

### 6.0 PRINCIPLES OF OFFICER DECISION MAKING

The authorised Officer must take into account the principles of decision making as set out in Part 2H of the Constitution (Article 8 – Decision Making), which are equally applicable to

Officers and Members. They must take into account all relevant considerations and no irrelevant considerations and they must have due regard to professional advice.

## **7.0 CONSULTATION**

Sometimes delegated authority to an Officer is given with the restriction that the authority may only be exercised in consultation with a specified Member or Members. In such cases, consultation is mandatory to comply with the terms of the delegation. However, consultation may also be appropriate in other circumstances, and an Officer making a decision should always consider any consultation that may be beneficial and inform their decision. The decision maker has a duty to ensure that effective consultation takes place.

Sufficient timescales should be provided to Members for consultation, and where appropriate sufficient time should be available to allow Members to consult with their constituents. Consultation should be carried out in writing, unless there is an urgency about the decision that makes such written consultation impractical, in which case the Officer shall confirm, in writing, to the Member their understanding of the Member's response to the consultation.

Regardless of any consultation, the Officer remains the decision maker and may not have their discretion fettered. If, after consultation, they consider they cannot make the decision in accordance with their professional opinion, they should not exercise their delegation.

## **8.0 REASONS**

It is a statutory requirement arising from the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, that reasons are given in respect of all Executive decisions.

It is good practice to record reasons in any Officer decision and it supports the principles of good administration, as well as ensuring that controversial decisions are rooted in relevant considerations and with proper regard to legal powers.

## **9.0 RECORDING AND PUBLISHING AN OFFICER DECISION**

Any Key or Major decision made by an Officer must be recorded, regardless of whether they are Executive or not. The decision should be recorded on an Officer Decision Notice, available on the intranet or from Democratic Services.

The Officer must provide a copy of the Officer report, together with the Officer Decision Notice to Democratic Services via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) as soon as practicable after making the decision.

Democratic Services will maintain a record of all Officer Decision Notices, including any reports upon which the decision was made. Subject to any exempt or confidential

information, democratic services will publish Officer Decision Notices relating to key and major decisions on the Council's website.

The Officer Decision Notice must be clear and convey the decision taken. It shall, as a minimum, set out the following:

- A record of the decision;
- The date the decision was made;
- The reasons for the decision;
- Details of any alternative options considered and rejected with reasons for rejection
- A record of any conflict of interest and any relevant dispensation granted.

## **10.0 CALL IN**

Key decisions made by Officers are subject to call in by the Overview & Scrutiny Committee and cannot be implemented until either the call in period has expired or the Overview & Scrutiny Committee has made a decision regarding the call in, or call in has been waived by the relevant Chair of the Scrutiny Committee.

The call in procedure is set out at Part 5C of the Constitution in the Overview and Scrutiny Procedure Rules.

It should be noted that the call in period commences at the time of publication of the Officer Decision Notice, rather than at the time the decision was made.

## **11.0 SUB DELEGATION**

Officers authorised to make decisions, whether by way of an Executive, Council or Committee resolution, or via the Scheme of Officer Delegations, are able to sub delegate that authority.

Any sub delegation made must be to an Officer with suitable experience and seniority. The original delegate remains responsible and accountable for the decision to sub delegate and for the exercise of the authority by a sub delegate.

Delegations to Officers are designed to enable Officers to take responsibility for decision where appropriate. However, there may be circumstances where the Officer considers that a particular decision should be referred to the body from whom the authority was delegated. Furthermore, the body making the delegation may, in particular circumstances, consider that the delegate should not exercise their authority, and require the decision to be made by the delegating body.

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## 61      PROTOCOL ON THE PRE-ELECTION PERIOD

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### 1.0      INTRODUCTION

- 1.1      The actions of the Councils, its Members and Officers are subjected to closer scrutiny in a pre-election period and many activities which would normally pass without comment, could become the subject of controversy.
- 1.2      This Protocol is intended to assist Officers and Members and covers rules on publicity, use of Council facilities, Council meetings, and use of premises during the pre-election period.
- 1.3      This Protocol aims to extend the principles underlying the conduct of Members and Officers and should be read in conjunction with the Council's Code of Conduct for Members, the Member / Officer Protocol, the Protocol on the Use of Council Facilities and Resources, and the Employee Code of Conduct. Also of relevance is any guidance note for Officers and/or Members that is issued by the Returning Officer for any particular election.
- 1.4      The pre-election period commences with the Notice of Elections and terminates the day after elections are concluded. The commencement date varies and the Returning Officer will notify all Members and Officers of the commencement date in advance of any pre-election period.

### 2.0      PUBLICITY

- 2.1      At any time the Councils are prohibited from publishing material which appears to be designed to affect public support for a political party. The Government's Code of Recommended Practice on Local Authority Publicity sets out the following key principles in relation to Local Authority communications and publicity generally:-
  - Publicity is defined in section 6 of the Local Government Act 1986, as amended, as: "*Any communication, in whatever form, addressed to the public at large or to a section of the public*". This definition is very wide and would include press releases, speeches, leaflets and newspaper articles issued by, or on behalf of, the Council as well as posters, sponsorships, events and displays.
  - Publicity about individual Members (whether or not they are, or may become, election candidates) should be objective and explanatory and should not be either party political or open to misinterpretation as such.
  - Publicity may include information about individual Members' views on issues, decisions and recommendations only where this is relevant to their position

and responsibilities within the Council. If views are expressed by, or attributed to, individual Councillors that do not reflect the views of the Local Authority itself, such publicity should make this fact clear.

### **3.0 PUBLICITY DURING THE PRE-ELECTION PERIOD**

3.1 The following additional guidelines apply to publicity during the pre-election period:-

- During the pre-election period all Council publicity should avoid the pro-active publicity of candidates and other politicians involved directly with the elections;
- There is a need to ensure that any publicity is objective, balanced, informative and accurate; concentrating on facts, explanations or both;
- Council publicity should, as far as possible, avoid controversial issues or report proposals which could be identified with individual Members or Groups. However, the Council may respond to any events and enquiries provided the answers are factual and not party political;
- Usually where an important unplanned event or emergency occurs during the pre election period, the Chief Executive, or their Deputy, would provide the response. However, where a Member level response is required this should either be from a Member holding a politically neutral position, such as the Chair of the Council, or alternatively an agreed response from all Group Leaders;
- Events providing photo and publicity opportunities should, where possible, be timed to avoid the pre-election period. Where this is not possible, candidates for election should not be involved.
- The timing of a publication is an important factor. The nearer the publication to the election, the more likely it is to be controversial and be perceived as designed to affect support for a particular party. Where possible, therefore, it is advisable to avoid publishing any controversial material near the elections.

### **4.0 CONTENT OF MEMBERS' PUBLICITY**

4.1 The content of any publicity issued by Members who are election candidates is very much a matter for each Member and his or her Political Group. However, there will be circumstances when the Council's Code of Conduct may apply, even to an individual Member's own election publicity, and as such the Code must be borne in mind. As Members of a Local Authority, it is also necessary to take into account the general duties of Local Authorities under equalities and other legislation.

### **5.0 IMPACT ON COUNCIL MEETINGS AND ACTIONS DURING THE ELECTION PERIOD**

5.1 In Local Government there is a broad convention that matters of political controversy, either locally or nationally, should not routinely be brought before Members if at all avoidable during a pre-election period. This can impact on, for

example, items brought to Committees, Questions from the public or from Members, Petitions, or Notices of Motion at Council.

5.2 In addition to the accepted convention, there are practical reasons for this approach from a publicity point of view. Firstly, whereas the agendas and minutes of official Council meetings are protected by the Local Government Act 1986 from being “publicity”, press releases publicising those minutes are not. This presents the Council with difficulties in publicising any sensitive or controversial decisions during the pre-election period, even if in other circumstances such publicity would be merited by the level of public interest. Secondly, the more restrictive publicity regime during the pre-election period means that where an initiative would benefit from a public launch or immediate advertisement or consultation, this will rarely be possible during the pre-election period.

5.3 Therefore any working practices or protocols which include publicity and media arrangements will need to be interpreted in the light of the restrictions mentioned above.

## **6.0 CONSULTATION**

6.1 Guidance contained in the 2021 Local Government Association Guidance recommends that no new public consultations should be launched during the election period, unless there is a statutory duty to do so or they are considered normal Council business, and nor should any findings from consultation exercises be reported during this period if they could be politically sensitive.

## **7.0 CODE OF CONDUCT FOR MEMBERS**

7.1 The Code of Conduct for Members applies not only when a Member conducts the business of their Authority but also when acting, or giving the impression they are acting as a representative of the Authority. In this respect, certain elements of the Code are particularly relevant during the pre-election period. Members are reminded to be particularly aware of the following provisions of the code of conduct:

- Paragraph 6.3: Impartiality of Officers
- Paragraph 6.5: Disrepute
- Paragraph 6.6: Use of Position
- Paragraph 6.7: Local Authority Resources and Facilities

## **8.0 GENERAL**

8.1 The Council does not and cannot vet or comment on Members’ election publicity. Generally, Members would need to seek any specific advice in relation to such publicity externally from the Council, for example through their Political Group.

## **9.0 USE OF COUNCIL FACILITIES**

- 9.1 The Council's Code of Conduct for Members provides that a Member must ensure that Council resources and facilities are not used improperly for political purposes. Any services or facilities provided by the Council for Members should be used exclusively for the purposes of Council business or to enable the Member concerned to discharge their function as a Councillor. This applies to all facilities including Council stationary, telephones, transport, photocopiers, officer time and ICT equipment. Further information can be found at Part 6D of the Constitution, Protocol on the Use of Council Facilities and Resources by Councillors.
- 9.2 Subject to paragraph 12.1 below, no election candidate or a person associated with a political party is entitled to access Council premises. Members and Officers need to take extra care to ensure that election candidates or other persons associated with political parties who are not serving Councillors are not seen to have unauthorised access to Council offices or facilities.
- 9.3 In relation to ICT equipment, Members should not use ICT equipment for party political purposes. Members sending messages to chat rooms, social media platforms or forums will need to consider whether to use their Councillor email address or a personal address. The former could be appropriate for simply sending information as a Councillor, but the latter will be appropriate if engaging in political debate.
- 9.4 Council business and party political business are not always mutually exclusive, and therefore the particular circumstances of each event will need to be considered.

## **10.0 USE OF EMAILS**

- 10.1 A Member's Council email address should not be used for political purposes, such as electioneering.
- 10.2 It is recognised that a local resident may contact their Ward Member about an election issue via that Member's Council email address, and it may be acceptable to respond to the email although it is political in nature. But Members should not initiate, or engage in extensive political discussions using Council provided email facilities.

## **11.0 USE OF TELEPHONE**

- 11.1 In line with the position on emails, Members may use Council supplied telephones for non party-political purposes or where the call is not initiated by a Member.
- 11.2 Council email addresses and telephone numbers should be avoided for any party political literature. If Members wish to refer to the facility for purposes of constituency work, it should be made clear that it is for Ward casework only and it is better kept in a discrete part of the document.



## **12.0 USE OF COUNCIL PREMISES DURING THE PRE-ELECTION PERIOD**

- 12.1 Between the Notice of Election being published and the day before the election, a candidate in the election is entitled to use Council meeting rooms to hold public meetings for furtherance of their candidature. This includes committee rooms and rooms in schools in the candidate's electoral area. The use of these rooms is free of hire charge though the candidate may be required to cover expenses associated with using the premises. Further information on these arrangements may be obtained from the Electoral Services Office.

## **13.0 CONFIDENTIAL INFORMATION**

- 13.1 Members are usually entitled to information not available to the public (exempt or confidential information) where that information is required by them to discharge their functions as Councillors. This may, for example, be the case if the information relates to an item coming before a Committee of which they are a Member. Exempt or confidential information cannot be used for electioneering purposes. It is for this reason that Officers, in the run up to an election, may seek to clarify the purpose for which a Member is seeking information. Members should not seek, nor may Officers provide, exempt or confidential information to help election campaigns.

## **14.0 MEMBER / OFFICER ROLES**

- 14.1 In general terms, the role of Members is to set strategies, policies and frameworks within which the Councils will operate, to monitor performance and to represent those who live in their Wards. Officers are employed to advise, undertake the detailed preparation and implementation work, and provide the day to day running of services. It is particularly worth bearing in mind this broad split of functions at election time and, in the interests of good administration, the need to avoid roles becoming confused.

## **15.0 SPECIAL RULES RELATING TO OFFICERS**

- 15.1 Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who hold politically restricted posts (generally Senior Officers and those who advise Members or speak on behalf of the Councils) are subject to additional restrictions.
- 15.2 If an Officer attends a political group meeting to brief Members on Council business, Members should ensure that the Officer is not present when political business is discussed. Any Officer attending such a meeting, should ensure that a similar briefing is offered to all political groups.

15.3 A central register of all posts which are Politically Restricted is held by Human Resources.

## **16.0 MEMBER / OFFICER PROTOCOL**

16.1 Further information and advice on the working relationship between Members and Officers is contained in the Member / Officer Protocol at part 6B of the Constitution.

## **17.0 COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL**

17.1 Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with, but options include referring the matter to the Returning Officer for a particular election or referring to Thames Valley Police where there is evidence of an elections offence.

## **18.0 FURTHER GUIDANCE**

Further advice or clarification can be sought from the Monitoring Officer or Returning Officer, or from the Electoral Commission or Local Government Association.

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## 6j: SOCIAL MEDIA POLICY

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### 1.0 INTRODUCTION

This Social Media Policy for Councillors is intended for use by all West Oxfordshire District Councillors and co-opted Members.

West Oxfordshire District Council has always been committed to innovation and creativity in the digital revolution which has taken place over recent years. We actively encourage the use of social media, which has become an integral part of everyday life for many of us as it is a useful way to communicate and connect with people all over the world.

This Policy on the use of Social Media by Councillors, does not seek to inhibit “freedom of expression”, and means that Councillors are generally free to talk about, or write about, or otherwise express, their ideas and opinions without any censorship or interference - subject only to a few exceptions.

In respect of Councillors, social media has many benefits including raising a Councillor’s profile, helping to deliver information to constituents in a fast and effective manner and for enhancing the reputation of the Council. However, there are also some pitfalls and some ways in which Councillors could use social media inappropriately, and this can have long lasting and significant consequences for the reputation of individual Councillors, their Political Groups and the Council as a whole.

### 2.0 ‘PROS’ AND ‘CONS’ OF SOCIAL MEDIA



### **3.0 SOCIAL MEDIA AND THE MEMBER CODE OF CONDUCT**

The Social Media Policy for Councillors ('the Policy') is intended to assist Councillors when using social media, in a personal or professional capacity, to avoid potential breaches of their Code of Conduct and enable them to uphold the highest standards of conduct and ethics in their communications.

This Policy should be read in conjunction with the Council's Member Code of Conduct and sets out when certain types of conduct relating to the use of social media may be considered inappropriate by a Councillor.

Councillors are personally responsible for their conduct online and should always be mindful of the Code of Conduct and the Nolan Principles.

#### **3.1 Acting in Capacity as a Councillor v Acting in Private / Personal Capacity**

The Council's Member Code of Conduct (Part 6A of the Constitution) provides that a Councillor must comply with the obligations of the code when acting as a Councillor, which may include when a Councillor misuses their position or when a Councillor's actions would give the impression to a reasonable member of the public with knowledge of all the facts that they are acting as a Councillor. This is a subjective test. However, there are actions which increase the likelihood of a Councillor being found as 'acting in their capacity as a Councillor'. For example, by identifying that they are a Councillor on their profile page, by using social media to campaign or to share Council news/developments with the public.

Councillors are advised to keep separate social media and online accounts for professional Councillor matters and purely private and personal matters. Doing so enables a Councillor to separate posts about Council business or their role as a Councillor from personal posts.

However, while a Councillor may make a distinction on social media about what is a personal account or content, that does not mean that it would be considered by others to be personal. So, for example, if a Councillor posts on a personal social media platform about a matter that has sufficient nexus with their role as a Councillor, they may be deemed to be acting as a Councillor regardless of the fact that the post is on a purportedly personal account or is said to be from the individual acting in their personal capacity.

Further, while a Councillor may be clear on social media about what is personal content, such content could still be shared by other people in public forums or used by the media.

If a Councillor does decide to maintain only one social media account, there is increased risk around when they may be considered to be acting in capacity, and under the jurisdiction of the code, should a complaint be made.

If a Councillor wishes to keep just one account, they should be clear on what the account is used for. For example, if the account is personal, they should keep it private and refrain from using Council or Councillor terminology, referring to their role as a Councillor, or posting, sharing or commenting about Council business.

#### 4.0 GENERAL RESPONSIBILITIES WHEN USING SOCIAL MEDIA

In addition to the Member Code of Conduct, Councillors should be mindful of the following responsibilities:

- Councillors should take particular care to ensure that, in any comment or post they create, they do not imply that they are speaking on behalf of the Council as a whole.
- Once a post is made on social media, it is there for the world to see. Even if it is deleted this does not mean that someone has not already saved a copy of it. Councillors should never post anything on social media that they would not be prepared to discuss in public meetings, with the local media, with their constituents, and with their friends and family. Councillors should think carefully before engaging in activity on social media.
- Councillors should be honest about who they are on social media and not impersonate anybody if it could lead to bringing the Council into disrepute.
- Councillors should be mindful of the safety of themselves, their families and others. Any information posted to social media is public including pictures, profile information, friends list and comments. Individuals will be able to see your information and link you to other people, which may include vulnerable children and adults.
- Councillors should only share accurate information from reliable sources and should be mindful of 'fake news' stories and outlets. It's evidenced that anonymous profiles can contribute to the spread of misinformation or fake news, as well as cyberbullying, trolling and hate crime.
- Councillors should be trustworthy and not use social media to divulge any confidential or exempt information which has been shared with them.
- Councillors should keep their social media accounts secure and protected by passwords. They should not allow anybody else access to any of their social media platforms.
- Councillors should remain professional and polite when conversing with members of the public. This includes the use of private messaging, commenting on posts or replying.
- Councillors should take care when providing opinions or sharing or commenting on posts that they do not use or share content that might be deemed offensive, bullying or discriminatory or might otherwise bring the Council into disrepute.

- Posts should not contain abuse, harassment, intimidation or threats of any form. Posts should not contain any form of discrimination – including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance.
- The way we interact with people in person is not just limited to the things we say. Body language, expression, tone of voice and who we are speaking to are all contributing factors to interaction. Considering this, Councillors should always consider how any comment/post they make on social media could be construed.
- Councillors should be mindful of the public perception of using social media during Council meetings and consider whether it is appropriate, particularly in regulatory meetings.
- Councillors should give careful consideration when sharing the posts of others, or when reacting to posts as reactions including smiley faces, thumbs up, laughing emoji's are all forms of on line communication.

#### 4.1 Dealing with Mis-Information

It is difficult not to engage when you are the subject of rumours, misinformation and smear campaigns. While it is always tempting to respond and clarify every rumour and falsehood circulated about you, it is also useful to think about the emotional, economic, time and costs of engaging; in many cases, rumours disappear as quickly as they emerged.

Some useful strategies to deal with such mis-information include:

Calmly try to understand who is behind the 'attack'. Most of the time, they are people with a clear agenda trying to gain control or to manipulate;

Correct the facts if you wish to do so; this can be done with a formal statement or if you can identify the source, then do it publicly by correcting their posts with facts and evidence. Remember that Officers are there to give advice, support and provide factual information;

Remember that rumours and misinformation are fed by repetition. It is good to defend your reputation but often the most efficient way is to do it once and then stop engaging this way;

Leave the environment the rumour is being spread within. A smear campaign tries to manipulate and gain control but no control can be gained if you do not participate. You may wish to advise your followers that you will be logging out of social media for a period of time, which gives the rumour time to calm down while protecting your own emotional and mental wellbeing;

Rumours and smear campaigns can be very stressful and at times, they can feel very isolating. Keep your self-confidence by talking to family, friends and others in your support network. Some may also feel able to counteract rumours with factual information;

If you can identify the source of the rumours and smear campaigns, you should document it and keep a record. This may be useful if further disciplinary or legal action is required;

The Council's Communications team is available to provide advice and support to all Councillors and can be consulted should a Councillor have a concern.

#### **4.2 Potential Legal Issues**

Councillors should be mindful that, in addition to a potential breach of the Code of Conduct, misuse of social media may give rise to other consequences.

The following issues, which may lead to criminal or civil legal proceedings, may also arise:

- Breach of Data Protection Legislation
- Publication of Obscene Material
- Incitement
- Copyright
- Harassment
- Discrimination
- Bias
- Defamation
- Judicial Review

#### **5.0 TRAINING**

Training on the use social media will be made available to Councillors by Democratic Services Officers. It is advised that Councillors undertake such training at least once in any term of office.

The Monitoring Officer, the Audit and Governance Committee or the Standards Sub-Committee, may also require a Councillor to undertake additional Social Media training as a result of concerns regarding their conduct.

If you are unsure, or have any questions about your social media use, contact the Monitoring Officer.

#### **6.0 LOCAL GOVERNMENT ASSOCIATION GUIDANCE**

The LGA has also published a Checklist for Councillors. This can be found at Appendix A.

## Appendix A

The LGA refer to 5 rules for councillors when using social media, as follows:

- Rule 1 – debate and disagreement are welcome, but only if expressed with courtesy, respect and politeness
- Rule 2 – posts should not contain abuse, harassment, intimidation or threats of any form
- Rule 3 – posts should not contain any form of discrimination including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance
- Rule 4 – posts should not spread false or unverified information
- Rule 5 – for transparency reasons, users should not post anonymously

### LGA Checklist for Councillors

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

#### Be a person

In the words of Digital Specialist [Euan Semple](#), "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

#### Don't worry about reaching everyone in your ward

Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However don't let this stop you as connections are getting continuously improving as we move towards a higher level of digital inclusion.

#### Don't let it replace your traditional work

To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

#### Think about the platform you'll use

If people in your ward are keen Facebook users then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

#### See how other councillors use it



Watch and learn from other councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

### **Don't be a slogan machine**

There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

### **Have a conversation**

Social media works best as a two-way conversation connecting people and sharing information. Good councillors do this every day face-to-face with residents—social media should be no different to this.

### **Don't wait for people to come to you**

You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a Facebook group set-up by residents. Comment on a blog, a website or a video clip.

### **Think about times when you won't post**

From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political messages. You won't always get the most rounded debates. Many councillors post sparingly on religious holidays.

### **To post in meetings or not?**

Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents' groups, journalists and bloggers are being encouraged to use social media from meetings. So adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting then it's something to think about.

### **Don't have a row**

Robust debate is fine from time-to-time and it's part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

### **Don't be abusive**

An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

### **Don't discuss case work detail**

Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

### **Pictures work**

People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

### **Enjoy it**

It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.



Whistle - Blowing Policy

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## 1. INTRODUCTION AND PURPOSE OF THE POLICY

- 1.1. Staff are often the first to realise that there may be something of concern occurring within the Council or Publica. Usually any issues can be resolved swiftly and satisfactorily. However, when these concerns relate to more serious matters, staff may be discouraged from expressing their concerns or 'whistle-blowing'.
- 1.2. Whistle-blowing is the term used when an employee passes on information concerning wrongdoing. This can also be called 'making a disclosure' or 'blowing the whistle'. Typically (although, not always) the wrongdoing will be something that the employee has witnessed at work.
- 1.3. Staff may feel disloyal and may fear victimisation or harassment. In such circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. However, any person raising a concern is protected in law.
- 1.4. Whistle-blowing law is embedded in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). This legislation provides that an employee has the right to take a case to an Employment Tribunal if they have been victimised at work or lost their job as a consequence of 'blowing the whistle'.
- 1.5. To be covered by this law, an employee who makes a disclosure must reasonably believe:
  - That they are acting in the public interest; referring to considerations which affect the good order and functioning of the Council for the benefit of its constituents. Public interest can also be described as being for the benefit of society, the public or the community as a whole - therefore personal grievances and complaints are not ordinarily covered by whistle-blowing law;
  - That the disclosure of information indicates past, present or future wrongdoing within the following categories:
    - (a) criminal offences which may include financial impropriety such as fraud;
    - (b) failure to comply with legal obligations;
    - (c) miscarriages of justice;
    - (d) endangering another person's health and safety;
    - (e) damage to the environment;
    - (f) covering up any wrongdoing in any of the above;
- 1.6. Staff are not prevented from making disclosures in the public interest by 'gagging clauses' in Settlement or Compromise Agreements. In short, where an employee wishes to make a disclosure that is in the public interest and relates to wrongdoing as detailed above, this cannot be prevented by a clause within a Settlement or Compromise Agreement.
- 1.7. The Council and Publica are part of various shared service arrangements and it is important that there is clear guidance for anyone wishing to raise an issue. This policy

- 1.8. applies to all staff of the Council, Publica and to individuals working within the organisations who are not staff (e.g. contractors, agency staff, volunteers, Councillors, staff of associated employers etc.)
- 1.9. The Council and Publica are committed to the highest possible standards of openness, probity and accountability. In line with that commitment we wish to encourage staff and others with serious concerns about any aspect of the work carried out by any of the organisations to come forward and voice them without fear of reprisal.
- 1.10. This policy is intended to encourage and enable staff to make disclosures at an early stage, rather than waiting. Staff are also encouraged to raise any issues internally with the Council and/ or Publica first rather than raising it outside of the organisations. If issues are raised externally in the first instance you may weaken the protection given to you under the Public Interest Disclosure Act 1998.
- 1.11. This policy also seeks to ensure concerns are raised in the right way and seeks to protect those staff members against whom complaints are made from malicious allegations. The Council and Publica have a duty to investigate all reports of irregularity. This does not mean that the organisations support the allegation.
- 1.12. This policy should be read if you are considering raising a concern to provide clarification in relation to the following:
  - The type of issues which can be raised;
  - How the person raising a concern will be protected from victimisation and harassment;
  - How to raise a concern;
  - What the organisation will do as a consequence of the report.
- 1.13. This policy has been agreed with any relevant trade unions or non-union representatives.

## **2. AIMS AND SCOPE OF THE POLICY**

- 2.1. This policy aims to:
  - Encourage staff to raise serious concerns at the earliest opportunity and to question and act upon concerns about practice.
  - Encourage staff to be watchful for illegal or unethical conduct and report anything of that nature of which they become aware. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work.
  - Ensure all reported allegations are treated in absolute confidence, with every effort made by the Council and Publica not to reveal a whistle-blower's identity if they so wish. However, it may be necessary for the whistle-blower to become an identified witness at an appropriate time, particularly if it has not been possible to substantiate the

- allegation by other means. The implications of this and the appropriate support/protection arrangements will be discussed with the whistle-blower. This is detailed at Part 3: Employee Safeguards and Assurances.
  - Ensure all reported allegations are treated fairly, ethically and consistently.
  - Provide a robust procedure and ensure any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue, as appropriate.
  - Provide reassurance for those acting in good faith that they will be protected from possible reprisals or victimisation. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he or she has raised a legitimate concern. Victimisation of an employee for raising a qualified disclosure is a disciplinary offence.
  - If misconduct is discovered as a result of any investigation under this procedure, the relevant organisation's disciplinary procedure will be used, in addition to any other appropriate measures. This could include internal criminal investigation and appropriate further action.
  - Allow whistle-blowers to raise concerns and proceed further if they are dissatisfied with the organisational response. It should be recognised that certain cases will have to proceed on a confidential basis and that feedback will be limited due to legal constraints.
- 2.2. This policy is not a substitute for other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults) or complaints. It should also not be used to raise matters relating to an employee's own terms and conditions of service.
- 2.3. There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This process does not form part of this policy. For further guidance on whistle-blowing and grievances, staff can contact the Advisory, Conciliation and Arbitration Service (ACAS) at [www.acas.org.uk/grievances](http://www.acas.org.uk/grievances).
- 2.4. If a member of the public has a concern about any service they have been provided by the Council or Publica then this should be raised as a complaint. There are existing procedures in place which relate to this. However, if that concern relates to malpractice by a member of staff, then they should be directed to Human Resources at the earliest opportunity.
- 2.5. If a member of the public has concerns relating to malpractice by a Councillor, then they should be directed to Democratic Services or the Monitoring Officer for the appropriate Council at the earliest opportunity.
- 2.6. Making malicious, vexatious or false allegations will not be tolerated and is a disciplinary offence. If a person makes an allegation in good faith and reasonably believes it to be true, but it is not confirmed by the investigation, the Council and Publica will recognise

your concern. However, if a person makes an allegation frivolously, maliciously or for

personal gain, appropriate action, which could include disciplinary proceedings, may be taken.

- 2.7. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, staff should not agree to remain silent and should report the matter at the earliest opportunity.
- 2.8. This policy and procedure is primarily for issues where the interests of others or of the organisation itself are risk. That issue may be one of the following (although this list is not exhaustive). The following are examples of concerns that might be raised:
- Financial irregularities including fraud, corruption or unauthorised use of public funds or other assets;
  - Conduct which is against the law, a miscarriage of justice or a failure to meet a legal obligation;
  - Failure to observe health and safety regulations, or actions which involve risks to the public or other staff;
  - Damage to the environment;
  - A criminal offence being committed;
  - Claiming benefits and/or expenses to which there is no entitlement;
  - The conduct of contractors and/or suppliers to the Council;
  - Sexual, racial, disability or other discrimination;
  - Neglect or abuse; physical or verbal;
  - Any other unethical conduct, malpractice, negligent or unprofessional behaviour;
  - Discriminatory acts not specifically covered by other procedures;
  - Concealment of any of the above;



### **3. EMPLOYEE SAFEGUARDS AND ASSURANCES**

#### **3.1. Harassment or Victimisation**

3.2. The Council and Publica recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice.

3.3. The Council and Publica will not tolerate harassment or victimisation in any form of anyone raising a legitimate concern. Any employee who attempts at any stage to apply any retribution or detriment to a whistle-blower will face serious disciplinary charges.

3.4. The Council and Publica will support and protect whistle-blowers who raise an issue in line with this policy, in accordance with the safeguards contained in the Public Interest Disclosure Act 1998. This legislation protects everyone from victimisation and dismissal when speaking out against corruption or malpractice at work.

3.5. Protection does not mean that if an employee is already the subject of disciplinary action or redundancy procedures that those procedures would cease or be suspended as a result of their whistle-blowing.

3.6. It may be that the employee making the report is (or was) directly involved in the action now being raised. In such circumstances it is in the employee's own interest to come forward as soon as possible. The Council and Publica cannot promise not to act against such an employee but the fact that they came forward may be taken into account.

#### **3.7. Confidentiality and Anonymity**

3.8. All reports will be treated in the strictest of confidence and every effort will be made to protect, and not disclose, the identity of an informant if that is their wish. However, if disciplinary or other proceedings are an option as a result of the investigation it may not be possible to take any action without further assistance, in which case the informant may be asked to become an identified witness and provide a witness statement. It is possible that the identity of the informant will become obvious during the investigation. In addition there is a risk that some colleagues may speculate about the source of the original complaint.

3.9. The law does not compel an organisation to protect the confidentiality of a whistle-blower. However, it is considered best practice to do so unless required by law to disclose it.

3.10. Any requests for disclosure of information relating to or collected as part of any whistle-blowing complaint or investigation will be considered and determined in

- 3.11. At all times the informant will receive full support from the Council and Publica. There will be a limited number of people aware of the investigation at any one time but there will always be a representative from Human Resources involved in the process.
- 3.12. This policy encourages a whistle-blower to put their name to an allegation. If you do not reveal your identity then you will not receive a response or feedback. It may also make the task of investigating the allegation and protecting the whistle-blower more difficult.
- 3.13. Concerns can of course be raised anonymously but are much less powerful. They can be considered at the discretion of the Council and Publica. In exercising this discretion the factors taken into account would include:
- The seriousness of the allegation.
  - The credibility of the concern.
  - The likelihood of confirming the allegation from other sources.
- 3.14. Staff who whistle-blow can seek independent support from the charity Protect. Details can be found by following the link below.  
<https://protect-advice.org.uk/>

## **4. PROCEDURE**

### **4.1. Raising a concern as an employee**

- 4.2. An employee can choose who to report a concern to.
- 4.3. As a guide, issues should normally be raised with a member of the Human Resources Team. A decision can then be made in relation to how the matter will be dealt with and who should be informed depending on the seriousness and sensitivity of the issues involved and who is suspected of wrongdoing.
- 4.4. If the Human Resources staff are not available, staff may direct any concerns to Internal Audit or the Counter Fraud and Enforcement Unit.
- 4.5. Alternatively an employee can speak to their own manager, or someone they feel comfortable talking to. A third party may also attend any meetings for moral support however, they would be required to maintain confidentiality. A whistle-blower may also wish to take advice from, or invite, a trade union or professional association to raise a matter on their behalf. Meetings may be held away from the workplace if necessary.

### **4.6. Raising a concern as an elected Member**

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- 4.7. If an elected Member has any concerns about the work conducted by the Council or Publica, they should raise the matter directly with Democratic Services, the Chief Executive / Head of Paid Service or the Monitoring Officer. In the case of financial irregularity, disclosure may be made to the Chief Finance Officer.
- 4.8. **Raising a concern as a third party contractor, agency staff etc.**
- 4.9. Concerns should be raised with the Human Resources Manager, the Chief Executive or the Monitoring Officer. In the case of financial irregularity, disclosure may be made to the Officer appointed under section 151 of the Local Government Act 1972.
- 4.10. **Alternative Reporting Routes**
- 4.11. There are a number of prescribed bodies and organisations who may be contacted if there is a reason not to raise the matter internally. Staff can find guidance by following the link below which provides a comprehensive list with contact details therein.  
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>
- 4.12. In the case of Local Government, that would include raising concerns with the Council's External Auditor (to establish who this is, contact Public Sector Audit Appointments Limited <https://www.psa.co.uk>). If the concerns relate to the conduct of public business, value for money or fraud and corruption relating to the provision of public services, staff may contact the National Audit Office <https://www.nao.org.uk>.
- 4.13. The Council and Publica would not ordinarily expect a whistle-blower to make disclosures to the media prior to raising the matter internally. If a person does approach the media with their concerns, the informant should expect in most cases to lose their whistle-blowing law rights.
- 4.14. **Process**
- 4.15. Concerns may be raised by telephone, in person or in writing. The earlier the matter is raised, the easier it is to take action. A whistle-blower is asked to provide the nature of the concern and why they believe it to be true, background details giving names, dates and places where possible, together with any other supporting evidence or information. An informant may be asked if they have any personal interest in the matter.
- 4.16. When raising an issue or making an allegation it is important that it is made clear that an informant is doing so as a whistle-blower to ensure they are dealt with correctly.
- 4.17. Although it is not expected that a person prove beyond doubt that the allegation is correct, it will need to be demonstrated that the allegation has been made in good faith and there are reasonable grounds for concern.
- 4.18. An informant should:

- Make a referral after consideration of the facts in a calm manner;
- Make a note of the facts as soon as it is feasible to do so;
- Be specific with dates, times, locations, names etc.;
- Deal with the matter promptly;
- Contact someone with the appropriate authority to deal with the matter.

4.19. An informant should not:

- Be reticent because they fear they are wrong;
- Approach, alert or confront the person they suspect of wrongdoing, directly themselves;
- Investigate personally – there are important rules of evidence which must be adhered to;
- Consult or discuss the matter with anyone other than those with the correct authority;
- Do nothing or leave it to someone else to report;

4.20. If approached by someone wishing to whistle-blow, a person should take full details and contact a member of the Human Resources Team to discuss the matter. It is imperative that staff do not undertake any kind of investigation or intelligence gathering exercise which could compromise the evidence.

4.21. It may be necessary for Human Resources (or other appropriate Officer) to take a preliminary statement to gather more information to entirely understand the situation and nature of the allegation.

## **5. HOW THE COUNCIL AND PUBLICA WILL RESPOND**

5.1. The action taken by the Council and Publica will depend on the nature of the issue. The Council and Publica will respond to your concerns as quickly as possible. Please note that making initial enquiries about the concerns is not the same as accepting or rejecting them.

5.2. The overriding principle for the Council and Publica will be the public interest. In order to be fair to all staff, including those who may be wrongly or mistakenly accused, initial independent enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. This decision will be made by Human Resources, the relevant Council Statutory Officers and Publica Directors. The matters raised may be:

- Investigated internally, either in accordance with internal policy and procedure or in line with criminal investigative regulations where appropriate. Whilst not all allegations will result in criminal action, this is an option open to the Council and Publica, and it is thus

- critical that the investigation is conducted in the appropriate manner. Evidence gathered as part of that investigation could form part of the disciplinary process whether or not criminal proceedings commence;
  - Referred to the Police or other external enforcement agency such as the Health and Safety Executive, Environment Agency etc.;
  - Referred to the External Auditor;
  - Form the subject of an independent enquiry.
- 5.3. Concerns or allegations which fall within the scope of existing procedures will normally be referred for consideration under those procedures. In some situations the matter may be resolved without the need for an investigation. Urgent and immediate action may be necessary where the security of relevant information is at risk or to protect the safety of staff.
- 5.4. If an investigation is appropriate, it may be necessary for this to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. However, in certain cases, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.
- 5.5. Within ten working days of a concern being raised, the whistle-blower will receive the following in writing:
- Acknowledgement that the concern has been received;
  - Confirmation of how the Council and Publica propose to deal with the matter;
  - If an investigation is to take place, who will be conducting the investigation;
  - If further investigation is not appropriate, the reasons why;
  - Process information and staff support mechanisms.
- 5.6. Contact between the whistle-blower and the Officers considering the issues and/or conducting an investigation will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If the matter is on-going then feedback may be limited; if the matter is dealt with promptly then the whistle-blower will be advised on the outcome.
- 5.7. You need to be assured that your disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.
- 5.8. Coordination of any investigation will be undertaken by a member of Human Resources with the authority to do so.

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- 5.9. The investigation process is independent and will seek to determine whether an irregularity has been committed, and if so, by whom. The investigator will have the
- 5.10. authority to access all necessary data and other resources pertinent to a full, fair and properly conducted investigation.
- 5.11. Once an investigation has been completed there are a number of potential outcomes including the following:
- No case to answer/ case closed;
  - Informal action;
  - Formal action, disciplinary action and/or prosecution by the appropriate body. Suspension may also be appropriate. (For information relating to these outcomes see the relevant internal Policy or Procedure where applicable which will detail processes, actions and appeal information);
  - External referral to the Police and/or other body.
- 5.12. The Council and Publica will do what it can to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are asked to give evidence in criminal or disciplinary proceedings, the Council and Publica will arrange for you to receive appropriate advice and support.
- 5.13. If a member of staff is dissatisfied with the conduct of an investigation, whether as the person under investigation, as the informant, or in any other involved capacity, a complaint may be raised with Human Resources who will ensure this is reviewed by a member of staff who is independent and who has not previously been involved in the investigation.
- 5.14. This Policy does not prevent any person from taking external legal advice.

## **6. RESPONSIBILITIES**

- 6.1. Managers should ensure all staff, including agency staff, consultants and contractors etc. are aware of and follow all Council and Publica Policies and Procedures. Managers should register any whistle-blowing cases brought to their attention immediately with Human Resources and provide support to any employee making such a complaint.
- 6.2. Staff should be vigilant and raise any serious concerns about aspects of work or practices which affect the integrity of the Council and Publica or safety of staff and/or the public.
- 6.3. Statutory Officers, Publica Directors and Senior Managers will respond to whistle-blowing submissions positively and within the timescales set out. The Chief Executive / Head of Paid Service and Managing Director has overall responsibility for ensuring that the policy is adhered to

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- 6.4. Human Resources will record and deal with any whistle-blowing issues including the provision of any support and advice as required to include attendance at meetings as necessary.

## 7. FURTHER INFORMATION

- 7.1. Further information on Council and Publica policy can be found in the following documents (or equivalent documentation / codes) :

- The Constitution;
- Code of Conduct for Staff and the Councillors Code of Conduct which include information in relation to gifts and hospitality and declaring and registering interests;
- Counter Fraud and Anti-Corruption Policy;
- Corporate Enforcement Policy;
- Proceeds of Crime and Anti-Money Laundering Policy;
- Recruitment and Selection Policies and Procedures;
- Financial Rules;
- Contract Rules or equivalent;
- Fair Processing Statements;
- Disciplinary and Grievance Procedures;

## 8. POLICY REVIEW

- 8.1. The Counter Fraud and Enforcement Unit and Human Resources will review and amend this policy as necessary to ensure that it continues to remain compliant and meets legislative requirements and the vision of the Council and Publica.
- 8.2. Human Resources and the Counter Fraud and Enforcement Unit will monitor the effectiveness of the Policy and provide the necessary awareness sessions to staff.
- 8.3. Responsible Department: Human Resources / Counter Fraud and Enforcement Unit  
Date: January 2022  
Review frequency as required by legislative changes / every three years.

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<b>Document Name:</b>	Counter Fraud and Anti-Corruption Policy
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### Revision History

Revision date	Version	Description
August 2019	1.1	Update following changes to data protection legislation
May 2022	2	Review and Update

### Consultees

Internal	External
CFEU Partnership Board	
One Legal / Legal Services	
Audit Committee / Audit and Governance Committee / Audit, Compliance and Governance Committee	

### Distribution

Name	
All Staff	

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## 1. INTRODUCTION AND PURPOSE OF THE POLICY

- 1.1. In administering its responsibilities; this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Member. The Council is committed to an effective Counter Fraud and Anti-Corruption culture, by promoting high ethical standards and encouraging the prevention, detection and investigation of fraudulent activities.
- 1.2. The Section 151 Officer has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council's financial affairs to include the development of financial codes of practice and accounting instructions. Through delegation of duties, the Officer ensures appropriate controls are in place.
- 1.3. The Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council's policies and procedures to demonstrate that the Council is acting in an open and transparent manner.
- 1.4. The Council has a statutory duty to undertake an adequate and effective internal audit of its accounting records and its system of internal controls. The Council's Financial Rules state that 'whenever a matter arises which involves, or is thought to involve irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, the Director, Head of Service or equivalent Senior Officer has a duty to immediately notify the Section 151 Officer and the Monitoring Officer, who shall take steps as they consider necessary by way of investigation and report'. Furthermore the Financial Rules also state that each Director, Head of Service or equivalent Senior Officer is responsible for 'notifying the Section 151 Officer and the Chief Internal Audit Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources.
- 1.5. The Council has a zero tolerance approach to fraud committed or attempted by any person against the organisation or any of its partner agencies. The Council will thoroughly investigate all suggestions of fraud, corruption or theft, from within the Council and from external sources which it recognises can:
  - Undermine the standards of public service that the Council is attempting to achieve by diverting resources from legitimate activities.
  - Reduce the level of resources and services available for the residents of the borough, district or county as a whole.
  - Result in consequences which damage public confidence in the Council and / or adversely affect staff morale.
- 1.6. Any proven fraud will be dealt with in a consistent and proportionate manner. Appropriate sanctions and redress for losses will be pursued, to include criminal proceedings against anyone perpetrating, or seeking to perpetrate, fraud, corruption or theft against the Council.
- 1.7. The Council is committed to the highest possible standards of openness, probity, honesty, integrity and accountability. The Council expects all Officers, Members and partner organisations to observe these standards and values, which are defined within the Code of Conduct for Employees and the Members Code of Conduct, to help achieve the Council's over-arching priority for the continued delivery of outcomes and value for money for local tax-payers.

## 2. DEFINITIONS

### 2.1. FRAUD

The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information. In legal terms, all of these activities are the same crime, theft, examples of which include deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

2.2 Fraud was introduced as a general offence and is defined within The Fraud Act 2006. The Act details that a person is guilty of fraud if he commits any of the following:

- Fraud by false representation; that is if a person:
  - (a) dishonestly makes a false representation, and
  - (b) intends, by making the representation:
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.
- Fraud by failing to disclose information; that is if a person:
  - (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
  - (b) intends, by failing to disclose the information:
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.
- Fraud by abuse of position; that is if a person:
  - (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
  - (b) dishonestly abuses that position, and
  - (c) intends, by means of the abuse of that position:
    - (i) to make a gain for himself or another, or
    - (ii) to cause loss to another or to expose another to a risk of loss.

2.3 In addition the Act introduced new offences in relation to obtaining services dishonestly, possessing, making, and supplying articles for the use in frauds and fraudulent trading applicable to non-corporate traders.

### 2.4. CORRUPTION

Is the deliberate use of one’s position for direct or indirect personal gain. “Corruption” covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately and against the interests of the organisation.

### 2.5. THEFT

Is the physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

### 2.6. MONEY LAUNDERING

Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origins and ownership whilst retaining use of the funds.

2.7 The burden of identifying and reporting acts of money laundering rests within the organisation. Any service that receives money from an external person or body is

potentially vulnerable to a money laundering operation. The need for vigilance is vital and any suspicion concerning the appropriateness of a transaction should be reported and advice sought from the Monitoring Officer, Section 151 Officer or Chief Internal Audit Officer. A failure to report a suspicion could compromise an individual and they could be caught by the money laundering provisions. All employees are therefore instructed to be aware of the increasing possibility of receiving requests that are not genuine and are in fact for the purpose of money laundering.

- 2.8 The Council recognises its responsibilities under Money Laundering and Proceeds of Crime Legislation. These responsibilities are adhered to in line with the Council's Proceeds of Crime and Anti-Money Laundering Policy and the related Procedures. The Council is required to have a designated Officer for money laundering reporting purposes. The officer nominated to receive disclosures about money laundering activity is the Officer appointed under section 151 of the Local Government Act 1972.
- 2.9 Both Financial and Legal Officers working for the Council also have their own professional guidance in relation to money laundering which places a duty on them to report any suspicions. These suspicions may override their legal professional privilege and confidentiality.

#### 2.10 **BRIBERY**

The Bribery Act 2010 introduced four main offences, simplified below. Please note, a 'financial' or 'other advantage' may include money, assets, gifts or services within the following:

- **Bribing another person:** a person is guilty of an offence if he offers, promises or gives a financial or other advantage to another person. Further if he intends the advantage to induce a person to perform improperly a function or activity or if he knows or believes the acceptance of the advantage offered constitutes improper activity.
  - **Offences relating to being bribed:** a person is guilty of an offence if he requests, agrees to receive, or accepts a financial or other advantage intending that as a consequence an improper activity or function will be performed improperly or if he knows or believes the acceptance of the advantage offered constitutes improper activity. Where a person agrees to receive or accepts an advantage as a reward for improper activity or function that has been performed. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not.
  - **Bribery of a foreign public official:** a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official. A person must also intend to obtain or retain business or an advantage in the conduct of business and must offer, promise or give any financial or other advantage.
  - **Failure of commercial organisations to prevent bribery:** organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business associated with the business itself.
- 2.11 The Council is committed to ensuring the prevention of corruption and bribery and sets out its policy in relation to the acceptance of gifts and hospitality by Officers and Members within the Codes of Conduct for Employees / Members (or equivalent) and the Constitution. Offers of or the receipt of any gifts or hospitality should be recorded by Officers and Members in the appropriate register whether accepted or refused. Officers and Members are also required to declare any outside interests that they have

which may result in a conflict of interest in respect of transactions and dealings with the Council. Again, any such interests will be recorded in an appropriate register.

2.12 Prior to entering into any business arrangements, all Council Officers and/or business units should ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption. If an Officer has any concerns they must raise them with The Chief Internal Audit Officer.

### 2.13. **MODERN SLAVERY**

Modern Slavery takes a number of forms but all relate to the illegal exploitation of people for personal or commercial gain. The Council recognises its responsibilities as outlined within the legislation and is committed to promoting transparency in supply chains to prevent modern slavery and to take appropriate action to identify and address those risks.

## **3. SCOPE**

3.1 In relation to any of the above mentioned offences, this policy applies to:

- All employees, including shared service employees, casual workers and agency staff.
- Members.
- Committee Members of Council funded voluntary organisations.
- Partner organisations, where the Council has a financial or statutory responsibility.
- Council Suppliers, Contractors and Consultants.
- The general public.

## **4. AIMS AND OBJECTIVES**

4.1 The aims and objectives of the Counter Fraud and Anti-Corruption Policy are to:

- Ensure that the Council has measures in place to guard against fraud and loss and that the Council maximises revenue recovery.
- Safeguard the Council's valuable resources by ensuring they are not lost through fraud but are used for providing services to the community as a whole.
- Create a 'counter fraud' culture which highlights the Council's zero tolerance to fraud, corruption, bribery and theft, which defines roles and responsibilities and actively engages everyone (the public, Members, Officers, managers and policy makers).

4.2 The Council aims to:

- Proactively deter, prevent and detect fraud, corruption, bribery and theft.
- Investigate any suspicions of, or detected instances of fraud, corruption, bribery and theft.
- Enable the Council to apply appropriate sanctions, to include prosecution, and recovery of losses.
- Provide recommendations to inform policy, system and control improvements, thereby reducing the Council's exposure to fraudulent activity.

## **5. PRINCIPLES**

5.1 The Council will not tolerate abuse of its services or resources and has high expectations of propriety, integrity and accountability from all parties identified within this policy. Maintaining this policy supports this vision.

## Constitution of West Oxford District Council

- 5.2 The Council has a documented Constitution, Scheme of Delegated Powers and Financial Regulations to give Members and Officers clear instructions or guidance for carrying out the Council's functions and responsibilities. Responsibility for ensuring compliance with these documents rests with management with adherence being periodically monitored by Internal Audit Services. Where breaches are identified these will be investigated in accordance with this policy and the Council's Financial Rules.
- 5.3 The Council expects that Members and Officers will lead by example in ensuring adherence to rules, procedures and recommended practices. A culture will be maintained that is conducive to ensuring probity. Members and Officers should adopt the standards in public life as set out by the Nolan Committee, known as the Nolan Principles:
- Selflessness – to take decisions solely in terms of the public interest and not in order to gain for themselves.
  - Integrity – not to place themselves under any obligation to outside individuals or organisations that may influence the undertaking of their official duties.
  - Objectivity – when carrying out any aspect of their public duties, to make decisions and choices on merit.
  - Accountability – to be accountable, to the public, for their decisions and actions and must submit themselves to the appropriate scrutiny.
  - Openness – to be as open as possible about the decisions and actions they take and the reasons for those decisions and actions. The dissemination of information should only be restricted when the wider public interest clearly demands it.
  - Honesty – to declare any private interests which relate to their public duties and take steps to resolve any conflicts arising in a manner which protects the public interest.
  - Leadership – to promote and support these principles by leadership and example.
- 5.4 The Council will ensure that the resources dedicated to counter fraud activity are appropriate and any officers involved in delivering these services are trained to deliver a professional counter fraud service to the correct standards ensuring consistency, fairness and objectivity.
- 5.5 All fraudulent activity is unacceptable, and may result in consideration of legal action being taken against the individual(s) concerned. In addition, the Council has in place disciplinary procedures which must be followed whenever Officers are suspected of committing a fraudulent or corrupt act. These procedures are monitored and managed by the Human Resources Team and may be utilised where the outcome of an investigation indicates fraudulent or corrupt acts have occurred.
- 5.6 The Council may pursue the repayment of any financial gain from individuals involved in fraud, malpractice and wrongdoing. The Council may also pursue compensation for any costs it has incurred when investigating fraudulent or corrupt acts.
- 5.7 This policy encourages those detailed within this document to report any genuine suspicions of fraudulent activity. However, malicious allegations or those motivated by personal gain will not be tolerated and, if proven, disciplinary or legal action may be taken. Reporting arrangements in relation to incidents of fraud or irregularity are detailed below.
- 5.8 The Council will work both internally across different departments and with external organisations such as the Police, HM Revenue and Customs and other Councils to

strengthen and continuously improve its arrangements to prevent fraud and corruption. The Council is committed to assisting the Police in fighting Serious and Organised crime and will implement measures and share data to ensure the Council is not engaging with organised crime gangs when procuring goods and services.

- 5.9 The Council collects and stores data within multiple departments to enable data cleansing, data sharing and data matching. This process can be utilised for the prevention and detection of fraud and the Council will pursue this where appropriate. The Council applies fair processing practices and these are reflected within data collection documents, stationery and other data collection processes such as those required for the National Fraud Initiative.
- 5.10 The Council will ensure Members and Officers receive the appropriate training relating to the areas covered within this Policy.

## 6. RESPONSIBILITIES

OFFICER / DEPARTMENT	SPECIFIC RESPONSIBILITIES
<b>Head of Paid Service / Chief Executive</b>	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
<b>Chief Finance Officer (Section 151 Officer)</b>	To ensure the Council has adopted an appropriate Counter Fraud and Anti-Corruption Policy. That there is an effective internal control environment in place and resources to investigate allegations of fraud and corruption.
<b>Monitoring Officer</b>	To advise Members and Officers on ethical issues, conduct and powers to ensure that the Council operates within the law and statutory Codes of Practice.
<b>Audit Committee/ Audit and General Purposes Committee / Audit and Governance Committee</b>	To receive formal assurance from an appropriate representative at meetings and an annual opinion report in relation to the Council's control measures and counter fraud activity.  The Audit Committee also receives assurance from external audit on the Council's Annual Accounts and Annual Governance Statement.
<b>Councillors / Members</b>	To comply with the Members Code of Conduct and related Council policies and procedures.  To be aware of the possibility of fraud, corruption, bribery and theft and to report any genuine concerns to the Chief Internal Audit Officer.



OFFICER / DEPARTMENT	SPECIFIC RESPONSIBILITIES
<b>External Audit / Internal Audit</b>	<p>Has a duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption, bribery and theft.</p> <p>Has powers to investigate fraud and the Council may invoke this service.</p>
<b>Counter Fraud and Enforcement Unit</b>	<p>Responsible for assisting the development and implementation of the Counter Fraud and Anti-Corruption Policy. The Counter Fraud Unit have a duty to monitor the investigation of any reported issues of irregularity.</p> <p>To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy.</p> <p>That action is identified to improve controls and reduce means, opportunity and the risk of recurrence.</p> <p>Reporting to the appropriate Senior Officer(s) (Section 151 Officer, Monitoring Officer, Chief Internal Audit Officer) with regard to the progress and results of investigations.</p> <p>Reporting annually to the Audit Committee on proven frauds.</p>
<b>Counter Fraud Provision / Services</b>	<p>To proactively deter, prevent and detect fraud, corruption, bribery and theft within or against the Council.</p> <p>To work on behalf of charities, Social Housing Providers and other organisations to proactively deter, prevent and detect fraud, bribery, corruption and theft for the benefit of local residents and the public purse.</p> <p>To investigate all suspicions of fraud, corruption, bribery or theft, within or against the Council, in accordance with the Criminal Procedures and Investigations Act 1996 (CPIA).</p> <p>To consider reputational damage and the public interest test when investigating any instances of fraud, corruption, bribery or theft.</p> <p>To conduct interviews under caution when appropriate in accordance with the Police and Criminal Evidence Act 1984 (PACE).</p> <p>To undertake any surveillance operation or obtaining any communications data, adhering to the</p>

OFFICER / DEPARTMENT	SPECIFIC RESPONSIBILITIES
	<p>Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 – this is applicable when undertaking criminal investigations only.</p> <p>To comply with Data Protection Legislation (and the General Data Protection Regulations) when obtaining or processing personal data.</p> <p>To report to the appropriate Senior Officer(s) for decisions in relation to further action.</p> <p>To enable the Council to apply appropriate sanctions, to include criminal proceedings, and to assist in the recovery of losses in accordance with the Council’s Corporate Enforcement Policy. To include prosecutions on behalf of Social Housing Providers, Charities, and other organisations where it is in the public interest and for the benefit of the local residents.</p> <p>To prepare Witness Statements and prosecution paperwork for the Council’s Legal Department.</p> <p>To attend and present evidence in the Magistrates Court, the Crown Court and Employment Tribunals.</p> <p>To provide recommendations to inform policy, system and control improvements.</p> <p>To provide fraud awareness training and updates for Members and Officers.</p> <p>To publicise successes where appropriate.</p>
<b>Human Resources</b>	<p>To report any suspicions of fraud, corruption, bribery or theft to the Section 151 Officer, Monitoring Officer or Counter Fraud representative if reported directly to HR or if identified during any disciplinary or internal procedures.</p> <p>To ensure recruitment procedures provide for the obtainment and verification of significant information supplied by applicants in accordance with the HR Vetting and Recruitment Fraud Risk Report.</p>
<b>Strategic Directors, Heads of Service, Service Managers or equivalent Senior Officers</b>	<p>The primary responsibility for maintaining sound arrangements to prevent and detect fraud and corruption rests with management.</p> <p>To promote awareness and ensure that all suspected or reported irregularities are immediately referred to the appropriate Senior Officer.</p> <p>To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, bribery and theft. To reduce these risks</p>

OFFICER / DEPARTMENT	SPECIFIC RESPONSIBILITIES
	by implementing internal controls, monitoring of these controls by spot checks and to rectify weaknesses if they occur.
<b>Staff / Employees / Officers</b>	<p>To comply with Council policies and procedures when conducting their public duties.</p> <p>To be aware of the possibility of fraud, corruption, bribery and theft and to report any genuine concerns. Officers may report suspicions as detailed below.</p> <p>Referrals can also be made in confidence in accordance with the Council's Whistleblowing Policy.</p>
<b>Public, Partners, Suppliers, Contractors and Consultants</b>	To be aware of the possibility of fraud and corruption within or against the Council and to report any genuine concerns or suspicions as detailed below.

## 7. APPROACH TO COUNTERING FRAUD

7.1 The Council has a responsibility to reduce fraud and protect its resources by enabling counter fraud services to complete work in each of the following key areas:

### 7.2 DETERRENCE

The best deterrent is the existence of clear procedures and responsibilities making fraud and corruption difficult to perpetrate and easy to detect. As detailed already within this policy, the Council has a number of measures in place to minimise risk:

- Clear codes of conduct for Officers and Members.
- Register for declarations of interest / gifts and hospitality for Members and Officers.
- Clear roles and responsibilities for the prevention and detection of fraud, corruption, bribery and theft including an Audit Committee, an appointed Monitoring Officer, Section 151 Officer and trained Counter Fraud Officers.
- Effective ICT security standards and usage policies.
- The application of appropriate sanctions and fines as detailed below.

7.3 The existence of an effective Counter Fraud Team is a prime deterrent for fraud and corruption. Counter Fraud Officers and the Internal Audit Team analyse and identify potential areas at risk of fraudulent abuse with the assistance of the Council's Corporate Management, efficient and effective audits of principal risk areas can then be conducted.

7.4 The Council will promote and develop a strong counter fraud culture, raise awareness and provide information on all aspects of its counter fraud work. This may include advice on the intranet, fraud e-learning tools, publicising the results of proactive work, investigating fraud referrals and seeking the recovery of any losses.

7.5 **PREVENTION**

The Council will strengthen measures to prevent fraud ensuring consideration of the Fraud Risk Strategy, associated documents and fraud risk register. Counter Fraud Officers will work with management and policy makers to ensure new and existing systems, procedures and policy initiatives consider any possible fraud risks. Any internal audit conducted will also consider fraud risks as part of each review and ensure that internal controls are in place and maintained to combat this.

7.6 Important preventative measures include effective recruitment to establish the propriety and integrity of all potential employees as set out within the HR Vetting and Recruitment Fraud Risk Report. Recruitment is carried out in accordance with the Council's Recruitment and Selection Policy and provides for the obtainment and verification of significant information supplied by applicants.

7.7 The Council will undertake any internal remedial measures identified by any investigation to prevent future recurrence at the first opportunity.

7.8 **DETECTION**

A record of fraud referrals received will be maintained by Counter Fraud Officers (and other departments as applicable). This record helps to establish those areas within the Council most vulnerable to the risk of fraud. In addition, a consistent treatment of information and independent investigation is ensured. A Council wide fraud profile is created which then informs any detailed proactive work.

7.9 The Council is legislatively required to participate in a national data matching exercise; the National Fraud Initiative (NFI). Particular sets of data are provided and matched against other records held by the Council or external organisations. Where a 'match' is found it may indicate an irregularity which requires further investigation to establish whether fraud has been committed or an error made. An officer within the authority is designated as the 'Key Contact' for this process. The initiative also assists in highlighting areas which require more proactive investigation. The Council may engage in other data matching/sharing for the purposes of fraud prevention and detection, and for the recovery of monies owed.

7.10 Safeguarding and deterrent internal controls and monitoring procedures are established for financial and other systems within the Council, for example those set out within the Council's Financial Rules / Contract Rules.

7.11 The Council relies on employees, Members and the public to be alert and to report any suspicions of fraud and corruption which may have been committed or that are allegedly in progress. Managers should be vigilant and refer any matters which may require additional monitoring to a senior representative within the Human Resources Department for guidance and further action.

7.12 **INVESTIGATION**

The Council will investigate all reported incidents of fraud or irregularity using its counter fraud resources. The Council will ensure the correct gathering and presentation of evidence in accordance with the Criminal Procedures and Investigations Act 1996.

7.13 Investigations will make due reference to Employment Law as necessary and be conducted within a reasonable time in accordance with the Human Rights Act 1998. Investigations will also adhere to and comply with other applicable legislation such as

the Police and Criminal Evidence Act 1984, Data Protection Legislation and the Freedom of Information Act 2000 as appropriate.

- 7.14 Officers may utilise investigative tools and gain intelligence utilising a number of legal gateways and data sharing agreements. This may include membership to third party organisations such as the National Anti-Fraud Network (NAFN).
- 7.15 When investigating allegations of fraud and corruption, the Council may be required to conduct surveillance. The Council must comply with the Regulation of Investigatory Powers Act 2000 which ensures that investigatory powers are used in accordance with human rights. To ensure compliance the Council has a written procedure detailing who may authorise covert surveillance and the use of covert human intelligence sources. Standard documentation has been adopted which must be used by an Officer when seeking such authorisation.
- 7.16 Officers may also need to acquire communications data when conducting an investigation. This is permissible however; the Council must adhere to the Investigatory Powers Act 2016 when applying for this information and the correct nominated single point of contact must be used. As above, specific details are set out within the written procedures.
- 7.17 The Counter Fraud and Enforcement Unit Officers adhere to the appropriate legislation when investigating irregularities and allegations of fraud. This includes the need to:
- Deal promptly with the matter.
  - Record all evidence received.
  - Ensure that evidence is sound and adequately supported.
  - Conduct interviews under caution when necessary.
  - Ensure security of all evidence collected.
  - Contact other agencies if necessary e.g. Police, Trading Standards, HM Revenue and Customs.
  - Notify the Council's insurers.
  - Implement Council disciplinary procedures where appropriate.
  - Attend court and present evidence.

### 7.18 **SANCTIONS**

The Council will apply considered sanctions to individuals or organisations where an investigation reveals fraudulent activity. This may include:

- Appropriate disciplinary action in line with the Disciplinary Policy.
- Fines and penalties.
- Criminal proceedings.
- Civil proceedings to recover loss.

### 7.19 **REDRESS**

A crucial element of the Council's response to tackling fraud is seeking financial redress. The recovery of defrauded monies is an important part of the Council's strategy and will be pursued in line with internal debt recovery processes and legal redress i.e. Confiscation Orders and the application of the Proceeds of Crime Act 2002.

### 7.20 **CONTROL FAILURE RESOLUTION**

In addition to the above, Internal Audit also prepares a risk based annual Audit Plan that details the key objectives and areas of work for the year. Within these work areas indicators for fraud are considered. Internal Audit will also respond to requests from management and Counter Fraud Officers where there may be concerns over the effectiveness of internal controls. The work plan is agreed and monitored by the Audit Committee and Section 151 Officer.

## 8. REPORTING, ADVICE AND SUPPORT

- 8.1 The Council's expectation is that Members and managers will lead by example and that employees at all levels will comply with the Constitution, Council Policies, Financial Regulations, Procurement Regulations, Financial and Contract Procedure Rules, codes of conduct and directorate procedures.
- 8.2 The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. It is essential that employees of the Council report any irregularities, or suspected irregularities to their Line Manager and if this is not appropriate then to a Counter Fraud representative.
- 8.3 The Council must create the right environment so that anyone can raise concerns in respect of irregularities with the knowledge that they will be treated seriously and confidentially. The Council will provide all reasonable protection for those who raise genuine concerns in good faith, as confirmed in the Council's Whistle-Blowing Policy.
- 8.4 If the informant is a member of the public or external contractor, they can contact a Counter Fraud Officer at the Council to report the suspicion. This can be done anonymously. A hotline number for reporting suspicions may also be established and if so, can be found on the Council's website. The Council's complaint procedure may also be utilised but may not be the most appropriate channel.
- 8.5 The above process does not relate to reporting Housing Benefit Fraud allegations (which are now dealt with by the Department for Work and Pensions) or to Council Tax Reduction Scheme offences. The informant should contact the Officer nominated to deal with this; details can be found on the Council's website within the Revenues and Benefit Section information.
- 8.6 The Officer who receives the allegation (whether from a Member or a Council employee) must refer the matter to a Counter Fraud representative within the Council, to determine how the potential irregularity will be investigated and to whom the allegation should be discussed within the Council. This is to ensure correct investigative procedures are adhered to and that any potential fraud enquiry is not compromised.
- 8.7 As appropriate, reports will be issued to the Monitoring Officer, Head of Paid Service, Section 151 Officer, Senior Officers, and Cabinet Members etc. where the irregularity is material and/or could affect the reputation of the Council. Decisions will then be made with regard to the most appropriate course of action. Communications and publicity will also be managed if the matter is likely to be communicated externally.
- 8.8 If the investigation relates to an employee then Human Resources will be engaged and the Council's Disciplinary Procedure will also be considered however this will be managed carefully to ensure any criminal investigation is not compromised.
- 8.9 The Council will also work in co-operation with the following bodies (and others as appropriate) that will assist in scrutinising our systems and defences against fraud, bribery and corruption:
- Local Government and Social Care Ombudsman.
  - External Audit.
  - The National Fraud Initiative.
  - Central Government Departments.
  - HM Revenue and Customs.
  - The Police.
  - Trading Standards.
  - The Department for Work and Pensions.
  - Immigration Services.
  - The Chartered Institute of Public Finance and Accountancy (CIPFA).
  - The Institute of Revenues Rating and Valuation (IRRV).
  - Social Housing Providers and Charitable Bodies

- 8.10 As detailed within this document and the Council's Whistle Blowing Policy, any concerns or suspicions reported will be treated with discretion and in confidence. Referrals can be made in confidence to the Counter Fraud and Enforcement Unit at [fraud.referrals@cotswold.gov.uk](mailto:fraud.referrals@cotswold.gov.uk) who work on behalf of Cheltenham and Tewkesbury Borough Councils and Cotswold, Forest of Dean and West Oxfordshire District Councils. Concerns can also be raised via Internal Audit.

## **9. FURTHER INFORMATION**

- 9.1 Further information on Council policy can be found in the following documents (or equivalent documentation / codes):
- The Constitution.
  - Code of Conduct for Employees (or equivalent) and the Members Code of Conduct which include information in relation to gifts and hospitality and declaring and registering interests.
  - Whistleblowing Policy.
  - Corporate Enforcement (Prosecution) Policy.
  - Proceeds of Crime and Anti-Money Laundering Policy.
  - Recruitment and Selection Processes.
  - RIPA / IPA Policies, Procedures and Guidance.
  - Financial Rules.
  - Contract Rules or equivalent.
  - Fair Processing Statement.
  - Disciplinary Procedure.

## **10. POLICY REVIEW**

- 10.1. The appropriate department will review and amend this policy as necessary to ensure that it continues to remain compliant and meets legislative requirements and the vision of the Council in consultation with the Council's Chief Finance Officer, the Legal Department and Members.
- 10.2. Review frequency as required by legislative changes / every three years.

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WEST OXFORDSHIRE  
DISTRICT COUNCIL

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# Council Communications Protocol

Constitution Working Group

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Part 6M: Communications Protocol

31 January 2023

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## **I. Introduction**

1.1 West Oxfordshire District Council is committed to communicating with the public, keeping residents, businesses and partners informed, and involving them in the process of local decision making. Our communications activity should be guided by best practice and must respond to the requirements of the law on local government publicity.

Good communication and engagement creates a positive experience for those who interact with the Council. It helps residents, businesses, employees, partners, and the media understand the Council's objectives, values, services, challenges and achievements. It also helps protect and improve the reputation of the Council and the work of local authorities more generally.

Without clear protocols, the reputation of West Oxfordshire District Council is vulnerable. These protocols form part of the Code of Conduct for employees and Elected Members. They have been developed to support and govern communications and marketing activity within the Council, including press relations. They are based on protocols seen across the country with other local authorities.

1.2 The objectives of the protocols and principles are:

- To establish, promote and embed effective working protocols to govern and guide the way West Oxfordshire District Council communicates and engages with a range of stakeholders
- Present a professional, accurate, co-ordinated and consistent approach that is resident centric and supports our audiences and services
- Provide guidance for all employees and Members to mitigate risk and promote council services and activity
- Ensure that all council communications is delivered in line with laws and best practice

1.3 The Communications and Marketing Team aims to provide guidance and leadership on communications and marketing activity. It will take responsibility for promoting and monitoring the communications protocols and principles, including highlighting instances when the protocols have not been observed and provide evidence to monitor the impact, which may include supporting any resulting investigation or disciplinary procedure.

1.4 The Council's Monitoring Officer will oversee the communications protocols and principles and will provide advice and guidance to The Communications and Marketing Team and Elected Members.

## **2. Scope**

2.1 These protocols apply to any Council communication, including:

- Published press releases and statements to the media
- Digital content including web copy, visual/ audio content and social media
- Any communication or document prepared by West Oxfordshire District Council services for public consumption, including advertising, leaflets, newsletters, reports, posters, banners, flyers or websites
- Any document or publicity with which West Oxfordshire District Council is associated with, even if the publication is produced in partnership or is a joint document then the communications protocols and brand guidelines still apply
- Any publication or work prepared for the public domain, by consultants or contractors when working on behalf of West Oxfordshire District Council
- Internal communications to employees, Elected Members and partners

2.2 The protocols apply to everyone who works for West Oxfordshire District Council in any capacity, or who represent the organisation in some way, including:

- All Elected Members
- All employees working on behalf of the council, including those directly employed by the council, employed by Publica, employed by another council and working on behalf of this council, an agency, freelance or consultant basis
- Volunteers working with Council service teams
- Partners, providers and suppliers (including contracted or commissioned services) that may want to refer to West Oxfordshire District Council in publicity material.

2.3 Employees should refer to the communications and marketing pages on the staff portal for other communication resources which include brand guidelines, style guide and templates.

### 3. Legal framework

3.1 A legal framework binds publicity or public statements issued by West Oxfordshire District Council. The Council must operate within the Local Government Act (1986), [The Recommended Code of Practice for Local Authority Publicity](#) and the [Explanatory Memorandum](#) to the Code. This section of the protocol covers the aspects of how this legal framework impacts on council communications and sets out the principles of all council communications.

3.2 The Code is grouped into seven principles for local authorities to follow. A council's publicity should:

- be lawful
- be cost-effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity.

3.4 The Code covers the full range of publicity, including where it is used to comment on controversial issues, or where there are arguments for or against the views or policies of the Council. The Code states that when communicating around these issues the Council “should seek to present the different positions in relation to the issue in question in a fair manner”.

3.5 Where the term ‘publicity’ is used it refers to all corporate council communications across the various channels used by the council to communicate including the local press, social media, newsletters and leaflets. The definition is “any communication in whatever form, addressed to the public at large or a section of the public”.

3.6 The Code states that where publicity is used to comment on the policies of central government, other local authorities or other public bodies, it should be ‘objective, balanced, informative and accurate’. It should aim to set out the reasons for the Council’s views and “Such publicity may set out the local authority’s views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy”. Political parties can choose to issue their own communications stating their political views on such issues if they so wish but it should be clear it is the view of a political party and not the Council as an organisation.

3.7 The attribution of marketing, promotional and advertising materials that reach the public unsolicited should be clearly laid out. It should be clear that the Council is responsible for the event or service, so the correct inclusion of the Council’s corporate branding as described in the brand strategy is a prerequisite.

3.8 Publicity campaigns are appropriate in most circumstances. They can form part of consultation processes where local views are being sought, promote the effective and efficient use of local services and facilities, or influence public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities. Publicity campaigns can also provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the Council’s policies in relation to that function and the reasons for them. However, the Code states, “Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy”. The

Council Communications and Marketing Team may communicate decisions made by the Council as part of the formal democratic process which form a particular view on a question of policy as long as the communications follows the principles of the Code.

3.9 When the Council is negotiating a commercial transaction or conducting enforcement activity, employees or Elected Members will not weaken the Council's position by disclosing it publicly or to the press. To do so would compromise a number of statutory obligations including the duty of care we have to council tax payers who rightly expect the Council to protect its financial position. In these circumstances only the Communications and Marketing Team, working with Legal Services, will communicate with the press. If this is not observed, it may result in disciplinary action in the case of employees, and a Code of Conduct investigation in the case of Elected Members.

3.10 Case law has established that the public interest, and what interests the public, is not the same thing. The Council has a duty to act in the public interest. The press may often be concerned with what interests the public. When these are in conflict, the Council will always act in the public interest.

3.11 There is a general prohibition on local authorities producing "party political publicity". Council publicity should never attack or appear to undermine generally accepted moral standards. Section 2 of the Local Government Act (1988) prohibits local authorities publishing any material which in whole, or in part, appears to be designed to affect public support for a political party. Also, councils should never use advertising as a means of giving financial support to any publication that could be associated with a political party. Publicity should reflect the tradition of a politically impartial service, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.

3.12 Publicity may include information about the Administration's proposals, decisions and recommendations where it is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual Members as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

3.13 Whilst it may be appropriate to describe policies put forward by an individual Councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

3.14 The Communications and Marketing team will seek legal clearance where appropriate for any issues that may be contentious, subject to a legal dispute, or part of a regulatory

process.

#### **4. Protocols for Members**

4.1 It is important Elected Members are supported and confident in communicating Council processes, priorities, services and decisions. However, there is often a need for Elected Members to distinguish between when they represent West Oxfordshire District Council in the press, on social media, and in public or when they are representing their personal views, those of their political group, or those of other groups of which they are members.

Members should also have regard to the [Member Code of Conduct](#), the [Member/ Officer Protocol](#) and the other elements of the [Council Constitution](#).

Members should be aware of the legal framework and political dimension relating to communication as covered in section 3 of this document.

##### *Working with the media*

4.2 To assist Members and to provide the most effective communications, protect the organisations reputation and support compliance with the protocol on use of council resources and the Member Code of Conduct, a Member should not issue a press release, statement, letter for publication, or organise a press conference on behalf of West Oxfordshire District Council, without notifying the Communications and Marketing Team in advance and obtaining their agreement.

Members can independently issue communications of a political nature and political groups will have their own arrangements for issuing communications on behalf of their group.

Members wishing to make comment as ward councillors are not required to notify the Communications and Marketing Team in advance, but should ensure it is clear they are making such comment in a personal capacity and should be careful not to be seen as spokespeople for the organisation. If a Member is uncertain they should contact the Communications and Marketing Team for guidance.

4.3 If a Member is contacted directly by a local or national journalist and asked to speak on behalf of West Oxfordshire District Council Council, they should refer the journalist to the Communications and Marketing Team and should not respond to the journalist on behalf of the organisation, even in an 'off the record' capacity. For specific issues and issues relating to Members' wards, Members are able to refer to the Communications and Marketing Team for support. This helps ensure consistency and accuracy.

4.4 Elected Members have obligations both individually and collectively. If they breach the requirements of the Members Code of Conduct – for example by 'leaking' confidential

information to the press or by bringing the Council into disrepute – this may lead to referral to the Council’s Monitoring Officer, who will deal with the complaint.

*Working with outside bodies*

4.5 Appointees to outside bodies should refer to the body’s own communications protocols. Statements or queries about West Oxfordshire District Council’s approach to the outside body should be directed to the appropriate Executive Member, or in some cases a Member ‘champion’ or a Councillor in a formally appointed role. If an appointee is asked to make a statement, or wishes to do so proactively, they should first engage the Communications and Marketing Team.

When acting on behalf of other organisations, Councillors should give thought to the fact that comments made by them will reflect on West Oxfordshire District Council and should maintain the responsibility to protect the reputation of the Council.

*Internal communications*

4.6 If Members wish to share a message with staff or across the organisation they should approach the Communications and Marketing Team who will be able to support with sharing the message. Members should not directly message the whole organisation or groups of staff (Publica or council employees) without consent from the Communications and Marketing Team or the Chief Executive or lead officer for a partner organisation.

*Use of Council materials in personal or political capacity*

4.7 Members are encouraged to make use of Council imagery, videos or other materials in a personal or councillor capacity to help inform and communicate with residents and build engagement. This could include sharing council social media posts on their own channels or in those of local community groups.

4.8 However, Members should not make use of Council imagery, videos or other materials as part of political materials or use it in a way that is intended to influence people to a particular political point of view. This includes any materials produced by employees or published by the Council.

4.9 Elected Members should not ask employees to take any part in producing political materials. In the context of this protocol this may mean asking an officer to take a photo, arranging a politically motivated event or providing material that could be used for political material.

4.10 When communicating for political or personal purposes, Councillors should not use Council email addresses or any other Council property. Council emails and resources should only be used for Council business in the role of a councillor.

*Social media*



4.11 Elected Members should refer to the [Social Media Guidance for Councillors](#) in the Council's constitution and should not use West Oxfordshire District Council social media channels to make political comments. This includes commenting on Council social media posts either using a personal account or any other account owned or managed by the Councillor.

*Use of campaign materials during council business*

4.12 Elected Members will at times be campaigning for their political party, either for elections for West Oxfordshire District Council, or for other bodies such as Government. To maintain the objectivity of the Council, Councillors should avoid displaying campaign materials in official meetings or in places/ activity which may compromise officer neutrality such as attending a meeting with partners as a council representative alongside officers.

## **5. Protocols for employees**

5.1 These guidelines provide the protocols and principles for employees across the organisation and sets out their role in regards to managing corporate communications. Individuals and service areas should seek advice from the Communications and Marketing Team on any of the topics below if further clarity is required.

*Working with the media*

5.2 Service areas should notify the Communications and Marketing Team in advance of positive or negative issues that may be of future press interest. Statements or media releases can be prepared by the Communications and Marketing team in advance of enquiries, to help protect the reputation of the service and the organisation.

5.3 Employees writing reports for council meetings will inform the Communications and Marketing Team of potential news items or matters which may attract negative or positive publicity, as early as possible. The Communications and Marketing Team will likewise ensure that it is aware of events and issues and will keep up to date with pipeline reports in the Forward Plans to identify any potential issues so that they can be dealt with proactively.

5.4 Employees of West Oxfordshire District Council will often be asked by the Communications and Marketing Team to respond as quickly as possible to media requests for interviews or background operational information, providing the employee with a deadline. This request will be in the form of an email and be followed up with a phone call. Those asked by the Communications and Marketing Team to assist in responding to press enquiries should do so as quickly as possible, so that press deadlines are met and to help support the reputation of the service and the Council.

5.5 All approaches by the press should be directed to the Communications and Marketing Team. No employees should respond to a journalist's enquiry or provide information

outside of the Communications and Marketing Team. If an employee is contacted directly by a local or national journalist, the protocol is:

- Advise the journalist to contact the Communications and Marketing Team in the first instance by email
- Take the name of the journalist, the publication they represent and their telephone number. Notify the Communications and Marketing Team and provide the journalist's contact details

The Communications and Marketing team will follow up with the journalist directly and identify the most suitable person to respond to the request.

#### *Social media*

5.6 The employee code of conduct applies both online and offline. An employee must not bring the Council into disrepute via their own social media activity (either as part of or outside of work). Failure to adhere to the code of conduct may result in disciplinary procedures.

5.7 No individual or service area may undertake a social media account as representing a service area or representing as West Oxfordshire District Council, without prior agreement from the Communications and Marketing Team.

5.8 Employees of the Council may be asked by the Communications and Marketing Team to respond quickly to social media queries. Those asked to assist in responding to social media enquiries should do so as quickly as possible, to help support the reputation of the service and the organisation. The request will be in the form of an email and be followed up with a phone call.

5.9 Usage of corporate social media accounts will be monitored by the Communications and Marketing Team. Any employee's access to platforms or services may be suspended as part of a performance management or disciplinary process. Reference is made to the employee code of conduct, which also applies to online activity.

#### *Websites*

5.10 The Communications and Marketing Team will work in conjunction with the ICT Team to manage the websites from a functional perspective but services areas are responsible for managing the content relating to their area.

5.11 All content should adhere to the brand guidelines and style guide. All content and copy should be in Plain English and avoid the use of jargon and acronyms. All images should be cleared with the Communications and Marketing Team and if possible, be locally relevant.

5.12 All content must adhere to accessibility laws. The design of the website is built around the recognised Government standard to meet accessibility guidelines and the Communications and Marketing Team regularly review content for accessibility. The Council is also regularly audited by the Government Digital Service to ensure we are meeting the legal requirements. Service areas are responsible for ensuring any content they wish to publish is in line with accessibility guidelines.

5.13 Services will be responsible for checking the accuracy and relevance of their web pages every month to ensure content is current and correct. The Communications and Marketing Team are responsible for ensuring all web content is useful and usable.

5.14 When necessary, and with support from the Communications and Marketing Team, services may produce dedicated websites to help support a sub-brand, service or business outcomes. A clear business case and objectives should be set when working with the Communications and Marketing Team to decide on potential return and the level of investment of funding and officer time.

#### *Internal Communications*

5.15 The Communications and Marketing Team will be responsible for identifying key audiences and circulating information to the wider organisation. The Communications and Marketing Team will also help all services include key council messages in communications internally.

5.16 If staff have a message they wish to share with staff they should approach the Communications and Marketing Team for advice on how that message should be shared.

## **6. Protocols for corporate communications**

6.1 Corporate communications is managed by the Communications and Marketing Team and encompasses materials issued on behalf of the council across a wide range of channels including press, social media, newsletters and print media.

6.2 Adherence to the protocol will ensure consistency of standards, accuracy of information and appropriate Elected Member and officer input with a view to protecting and enhancing the reputation of the Council so that it is seen to communicate in a professional and objective manner.

6.3 The Communications and Marketing Team provides advice and support to all services and Elected Members. Its main roles are to manage and maintain relationships and reputation, as well as to promote pro-active publicity on Council policy, local authority partnerships, paid for services, local initiatives/achievements and other issues affecting the Council and the district.

6.4 The Communications and Marketing Team communicate on behalf of the organisation. As part of the Council's Constitution, an Executive is formed that sets the strategic direction and priorities for the Council and therefore the corporate communications will largely communicate the decision-making, strategic direction and views of that Executive and its Elected Members in their formal role along with Council and committee decisions. It does not constitute 'political' communications to communicate the views and activity of the Executive regardless of whether or not the members are all of one political party, and it is important to distinguish between the political allegiances of an administration and their activity in a formal council role - which is the focus of corporate communications. The communications should however, not fall foul of the legal framework set out in Section 3 of this protocol and the Communications and Marketing Team can not provide any support to Executive Members in a political capacity.

#### *Spokespeople for the Council*

6.5 The following roles will act as spokespeople for the Council on activity conducted by the Council or in response to media enquiries:

- The Leader of the Council - on combined portfolio and/or high profile issues
- Executive Member – on subjects relevant to their portfolio including policy, decision making and council activity
- The Chairman of the Council - on civic matters
- Chairman of any committee – on the business of the committee where it is not appropriate for the relevant Executive Member to respond
- Individual Members of the Council – may express a personal view but should not speak on behalf of the Council other than as above. If they are making representations on behalf of constituents or communities they should make clear that this is the case.

Where an Executive Member may not be available to take part in communications regarding their portfolio, the Leader of the Council, or another Executive Member may step in.

6.6 Where the relevant Member is not available to take part in communications, employees may act as spokespeople in their place. This will first be offered to senior employees such as the Chief Executive, Monitoring Officer or Section 151 Officer.

6.7 Elected Members may delegate to an officer to act as a spokesperson where the officer may be better placed to speak on a topic. This would require the consent of the officer to act in that capacity and the Communications and Marketing Team would provide support.

#### *Media releases*

6.8 The Council values the press as one of its key partners in communication and aims to forge strong professional links with local, regional, and national media. It is committed to being transparent and maintaining a positive working relationship with the media and respects the right of the media to report on any given topic.

Positive press coverage supports the reputation of the Council. When issuing proactive media, all content will follow a corporate style appropriate for the media being targeted, and a central record will be maintained. All releases will accurately reflect the corporate view of the Council, contain relevant facts, and include an approved quotation from the appropriate councillor. This will in most cases be the relevant Executive Member.

6.9 All official Council news/press releases will be placed on the Council's website within one working day of issue wherever possible.

6.10 The Communications and Marketing Team will consider the timing of releases carefully with each case being decided on its merits. Issuing press releases when, or just after, meeting papers are published can help the Council drive the narrative of an issue from an early stage, or it may be preferable to issue press releases after meetings.

6.11 Should the media publish / broadcast an inaccuracy relating to Council business, policy or process, a quick decision will be taken on any action necessary to correct it. The issue will be discussed with the appropriate senior officer and a plan of action agreed. It should be noted that in the case of minor inaccuracies which have little or no impact on the message being conveyed, it can sometimes be counterproductive to complain. Each case must be judged individually.

6.12 The Council will publish media releases relating to Council legal and enforcement activity once it is concluded to demonstrate the Council's action and to help deter people from breaking the law. In the case of these releases, the content will be led and signed off by the relevant specialist officers and will follow a different format to ensure they present the legally correct wording in context.

#### *Media enquiries*

6.13 The Communications and Marketing Team receives a significant number of enquiries from local, national, and international TV, radio, newspaper and news website organisations. All media enquiries should be referred to the Communications and Marketing Team in the first instance. This enables the service to make a judgement about whether an enquiry should be answered and by whom. Sometimes it is not in the best interest of the organisation to respond. If a response is required it can often be handled with a written statement prepared by the Communications and Marketing Team in conjunction with relevant employees or a statement may come from a relevant Executive Member if it is of strategic importance.

6.14 Responding to media enquiries can be time-consuming and often, responses are requested within a short timeframe. The Communications Team will manage these requests and establish realistic response times in conjunction with employees, Members and the

media organisations concerned. At all times, the Communications and Marketing Team will seek to protect and enhance the Council's reputation.

6.15 When an inquiry is received, the Communications and Marketing Team will ask the most appropriate officer for the information required and formulate a response. The normal response will be attributed to an 'WODC spokesperson' or relevant Executive Member if they wish, however, there may be occasions when a deadline must be met, and an 'WODC spokesperson' will be quoted. The response will be approved by the relevant Service Head and a Senior Leadership officer (Chief Executive, Monitoring Officer, Section 151 Officer)

6.16 Occasionally, requests for interviews are received from media organisations. Defined spokespeople will be asked by the Communications and Marketing Team if they wish to be interviewed, and a pre-interview briefing can be supplied on request. Media training will be offered to all Executive Members and senior officers to assist with this.

6.17 The Communications and Marketing Team will make every effort to ensure that employees and Elected Members are informed before they are exposed to significant issues through the media. However, in an increasingly fast and pervasive communications environment, particularly given the speed and ease of dissemination on social media this will not always be possible.

6.18 In the event that the media requests a comment on an open investigation either being conducted by the Council, or by a partner, the Communications and Marketing Team will seek guidance from the relevant specialist team or partner organisation to ensure any Council response (or other communication) does not compromise the investigation while still adhering with the principle of being open and transparent.

#### *Social media*

6.18 The Council has several active social media channels which are used to promote operational matters, and strategic priorities which have been agreed by the Administration. Given research is showing more and more residents are relying on social media it is important that the council proactively engages on these channels

6.19 Where the Council issues a press release the Communications and Marketing Team may look to develop social media content to sit alongside and compliment those releases. The Elected Member(s) quoted in the press release may be included in the content.

6.20 Social media calls for a different approach to content to keep it engaging to audiences. As such, social media content will include a range of Elected Members, employees, partners and residents. The Communications and Marketing Team will use their professional judgement to ensure content complies with the other relevant points in this protocol.

6.21 The Communications and Marketing Team will manage comments and feedback on the council social media accounts in line with the approach below. This is published on the accounts where possible:

*“To protect your privacy, we may delete posts that contain personal data. We strongly advise you NOT to publish any personal data. If you need to send us these details, please email [correct email provided].*

*“We do not accept obscenities, bullying, insults, trolling, misinformation, fake news or political comments. We will also not tolerate discrimination or unfair treatment on the basis of certain personal characteristics as set out in law. We reserve the right to remove any posts containing any of this material on our page. We also reserve the right to block any individuals who post the content.”*

#### *Photos and Video*

6.22 Photo and video are crucial to providing engaging content for residents. It is important that the right Elected Members and employees are included in images/ videos so it is clear to residents who is responsible/ associated with the communications being issued.

6.23 When a photo is taken as part of communications around a Council decision or policy, the relevant Councillor spokesperson will be the key focus of the image/ video. This can also include key employees who have/ will be delivering the work in question. Other Elected Members may be included in the photo/ video if the topic of the photo affects their ward and they have taken an active/ official role in the topic being communicated. However, it is often challenging to organise a time/ place for everyone involved to be included. In this case the Executive Member will be included along with whoever else is available. All efforts will be made to be inclusive.

#### *Communications during emergencies*

6.24 There will be instances where the Council is required to respond to civil emergencies. This will either be as a Category 1 responder in a formal civil emergency/ major incident or in reaction to events that do not trigger a formal response but do have a large impact on the district, residents and businesses. In either scenario The Communications and Marketing Team will work to the separate communications protocol set out in the Council’s Emergency Response Guide and in line with national best practice and laws around emergency response.

## **7. Communications around elections**

7.1 Communications during the run-up to elections may be particularly sensitive and there are restrictions contained with the [Recommended Code of Practice for Local Authority Publicity](#). To ensure the continued political impartiality of West Oxfordshire District Council and its employees, the restrictions on communications apply to District Council elections and also to national, County Council and PCC elections.

7.2 The period of restriction in question relates to the day when formal notice of a local or national election is given, up to and including the day of the election – this is known as the pre-election period (formerly known as ‘purdah’). Corporate communications activity will continue as normal until the pre-election period starts and will recommence the day following the election.

7.3 Any local authority is prohibited from publishing any material that appears to be designed to affect support, positively or negatively, for a political party. Careful consideration should be given to the style, content, timing of material and the likely effect it will have on the audience. Material is prohibited if:

- It refers to a political party of a person identified with a political party
- It promotes or opposes a point of view on a question of political debate or controversy
- It supports a view or issue identifiable as the view of one political party and not of another
- It identifies with individual Elected Members or groups of Members
- It is part of a campaign associated with a political view
- It contains quotes from politicians outside of the Council, such as members of parliament, who are clearly identified as part of a political party.

7.4 However, even during the run up to a local or national election, communications and marketing can continue as follows:

- It is acceptable for the Communications and Marketing Team, on behalf of the Council, to distribute press releases, social media content, newsletters, etc provided the content is factual and not party political. This can include corporate narrative that was used before the pre-election period
- Press releases can be issued but can not quote Elected Members during this period. senior officers will instead be quoted.
- It is admissible for Elected Members of the Council holding key positions to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority’s control.
- It is admissible for the Chair of the Council to be included in communications regarding civic events and activities

7.5 All these restrictions apply to other organisations that receive local authority funding and employees should check with community groups they fund and with third sector organisations that may be planning publicity around election time.

7.6 In general the question to ask of all publications, documents or events is; ‘can it wait?’ And if not, ‘will the subject matter be regarded as influential on voting behaviour?’ This will be the case with controversial subjects and needs to be avoided altogether.



7.7 If an Elected Member asks an employee of the Council to publish something that the employee considers to be inappropriate or is against communications protocols, the concerns need to be raised with the Monitoring Officer and the Communications and Marketing Team. If something cannot be distributed as a Member has suggested then the employee should explain why. Guidance and support is available through the Communications and Marketing Team and the Monitoring Officer and the Monitoring Officer will make final decisions on contentious decisions.

7.8 If the document has a high corporate profile or deals with a strategic issue then the Chief Executive or a Director should approve the final version.

7.9 Political parties should avoid using any straplines or key messaging from Council campaigns, policy or other activity to avoid the association of the Council with the political activity of a single political party and maintain the neutrality of the Council.

7.10 During a pre-election period it is likely that the local media and other organisations will use material published by the Council before the pre-election period. For example this could result in a story in the local paper being printed during the pre-election period based on a media release issued before the pre-election period began. The Council can not control the activity of external organisations and their activity is not covered by pre-election guidance. As long as the Council published the information before pre-election it is lawful.

7.11 The pre-election period only applies to the publication of new communications. It is neither practical, nor legally required, for officers to remove any material published before the pre-election period from platforms where they can be viewed by the public.

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## Protocol for Webcasting Meetings

### Introduction

West Oxfordshire District Council ('the Council') is committed to involving local residents in decision making, however some residents may sometimes not be able to attend the meetings they are interested in. To ensure that those residents can still get involved, the Council live streams meetings of Council, the Executive and committees (except for any exempt or confidential business). Recordings of meetings can be viewed online as the meeting happens and for up to 6 months from the date of the meeting. The written minutes are the permanent record of the meeting.

### Role of Chair

To ensure that attendees are aware the meeting is being webcast.

To welcome viewers of the live stream to the meeting.

To remind attendees at the start of the meeting and when required to use their microphones when speaking and to turn their microphone off when not speaking. The Chair's microphone takes precedence over other microphones meaning the Chair will be displayed on the webcast whenever their microphone is on.

### Role of all attendees

All attendees are to advised to follow this etiquette:

- To use microphones when speaking and to turn microphones off when not speaking.
- To be aware that whatever is said in the meeting is being broadcast.
- To refrain from having side-conversations, which may be picked up on the webcast (whether audio or video).
- To ensure that any devices are only used for Council business purposes during the meeting as images on laptops etc. may be seen on the live stream.

### Remote attendance

Elected members must be physically present in the meeting room in order to participate as members of the meeting and vote. Officers and other attendees may, in exceptional circumstances (i.e. inability to travel), request to join meetings remotely by giving at least one weeks' prior notice to Democratic Services. Remote attendance will be subject to officer capacity to support the hybrid meeting on the day and the agreement of the Chair. If agreed, Democratic Services will provide a link for joining remotely. The limiting factor with a hybrid connection is the strength of the remote attendee's internet connection.

Any remote attendees are to adhere to the following additional etiquette:

- To ensure as far as possible that they have a strong and stable internet connection.
- To ensure as far as possible that there will not be interruptions.
- To ensure that the background is blurred or nondescript.
- To ensure that the camera is on and that their microphone is unmuted when speaking.
- To ensure that the microphone is muted when not speaking.

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**WEST OXFORDSHIRE  
DISTRICT COUNCIL**

## **Employee Code of Conduct Policy**

<b>Revision date</b>	<b>Version</b>	<b>Description</b>	<b>Owner</b>
30/11/2023	Version 1.0	Initial Policy	Monitoring Officer

### **I. Introduction**

#### **I.1 Why you must read our Code of Conduct**

West Oxfordshire District Council expects every employee to behave in a highly professional manner. That's why you need to read and understand the Code of Conduct as it sets out the standards, we expect from you while you are at work.

#### **I.2 What is the Code of Conduct?**

The Code of Conduct is designed to provide guidance about what is expected from you in your daily work and in your dealings with elected members, colleagues, and the public.

As an employee of the Council you must be familiar with the Code of Conduct. This document forms part of your contract of employment and you are required to comply with its contents. Failure to do so may result in disciplinary action, up to and including dismissal.

For this reason, it is important that you read the whole of this document and ask your manager or Human Resources (HR) for clarification if there is anything in it that you don't understand and needs explaining.

Once you have signed and returned the acceptance section, it will be assumed that you understand its contents, agree to comply with your contract of employment, and all the rules and policies, etc that it refers to.

#### **I.3 Who does it apply to?**

The Code applies to all employees and anyone acting as an employee of the Council (to clarify - the use of the word 'employee' within this code includes permanent and temporary employees, casual workers, and agency staff).

Inevitably, some of the issues covered will affect some employees more than others. Although the Code does not directly apply to contractors, consultants or volunteers, the Council's continued association with these individuals and/or their organisations requires them to observe and comply with the Code. However, in some instances, compliance may be a condition of the contract between a third party and the Council, in which case their compliance with the Code would be binding.

#### **I.4 Other Policies and Procedures**

The various sections of the Code of Conduct summarise key Council policies and procedures in respect of behaviour and the ways in which you are required to work. If you are in any doubt about how they apply to you, you should always refer to the full policies and procedures. These can be accessed via the Council Portal, requested from your line manager or through the Council's HR team at [HR@publicagroup.uk](mailto:HR@publicagroup.uk).

**Acceptance Form**

Once you have read and understood this Code of Conduct, please complete the form below and return this to [HR@publicagroup.uk](mailto:HR@publicagroup.uk).

Please remember it is important that you read the whole of this document and ask your manager or HR for clarification if there is anything in it that you don't understand and needs explaining. Once you have signed and returned the acceptance section, it will be assumed that you understand its contents and agree to comply with your contract of employment and all the rules and policies, etc that it refers to.

I have read and understood the West Oxfordshire District Council Code of Conduct.

Name

.....

Signature

.....

Job Title

.....

Date

Your Manager:

.....

.....

## **2. Standards of Behaviour**

The sections below, together with the seven principles which are set out in Section 28 of the Localism Act 2011, and which were originally set out by the Nolan Committee on Standards in Public Life contained in Annex A, set out the framework within which all employees must operate. Failure to do so may result in disciplinary action, including and up to dismissal.

### **2.1 Workplace behaviour and personal conduct**

In summary, you are required to:

- Act with dignity and treat all others, including colleagues, elected members and members of the public with dignity and respect.
- Ensure your behaviour and performance meets workplace standards at any time that you are representing the Council or are likely to be identified or associated with your role as a public official (whether or not you are 'on duty' at the time).
- Ensure you are familiar with and follow the Council's rules, policies and procedures
- Be committed to delivering quality services to service users
- Work in accordance with the terms and conditions of your contract of employment and job description

### **2.2 Grievances**

The Council encourages a culture in which you can raise any workplace problems, complaints, or concerns in a supportive framework. If you have a concern or grievance, you can use the Grievance Policy.

Most issues can be resolved informally, however, if an informal approach does not resolve matters, or is not appropriate, you may choose to raise a formal grievance.

Any employee who submits a grievance in good faith will not suffer any adverse consequences as a result of submitting the grievance. Should your allegation be found to be vexatious or a complaint which is falsely made, that is, it is not made in good faith or based on evidence, this may result in disciplinary action.

### **2.3 Reporting Absence**

If you are unable to attend work for any reason, you must notify your manager by telephone as soon as reasonably practicable, but preferably before you are due to start work, providing your reason for absence to enable your manager to make alternative arrangements for your work to be covered if required.

If your manager is unavailable, you should contact the next most appropriate manager.

Notification of sickness absence must be via telephone, rather than text message, email, or social media. In exceptional circumstances, where the employee is unable to telephone (for example, because of hospitalisation), another person such as a relative or friend can contact the Council on their behalf.

Please refer to the Sickness Absence Policy for more information.

## **2.4 Misconduct**

The Code of Conduct guides and assists employees acting in good faith. If, in your decisions, actions or conduct, you wilfully fail to comply with the standards outlined in the Code of Conduct, you will be guilty of misconduct and are likely to fall subject to disciplinary action, up to and including dismissal.

## **2.5 Learning and Development**

As part of your employment with the Council you are obliged to participate in and complete a range of mandatory learning and development courses, including, but not limited to those found on your IHasco homepage.

You may also be required to participate in learning and development to develop your skills and knowledge to perform your job and improve the service we deliver as a Council and the communities we serve.

You are required to participate in an annual appraisal and performance review and reasonably engage in any plans for improving your work performance. If you are a manager, you are required to complete an annual appraisal for your direct reports.

## **2.6 Alcohol and Drugs**

As an employee of the Council, you must not consume alcohol, use illicit drugs/legal highs or other illegal substances while at work and must not attend work under the influence of such substances.

There are times when you may attend a work event, such as an awards night, where alcohol is available. At these times, alcohol may be consumed with permission, however, you must remember that you continue to represent the Council.

The Council reserves the right to undertake a programme of random alcohol and drug testing.

Similarly, if you are taking legally prescribed or over-the-counter drugs, you must ensure that their use does not adversely affect your work performance and the safety of yourself and others. If you are concerned about prescription medicines, please speak to your GP and to your line manager to discuss any potential side effects.

If you are a manager, you will need to consider the options available for assisting employees who are required to take legally prescribed drugs and whose level of performance has been impaired. In these circumstances, a risk assessment should be undertaken with the assistance of the Occupational Health service.

## **2.7 Health & Safety**

All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to Council buildings and premises.

These responsibilities are outlined in the Health and Safety policy. In summary, your legal duties as an employee are:



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- To take reasonable care for the health and safety of yourself and others who may be affected by your actions or omissions at work.
- To co-operate with employers or other persons to enable you to perform your duties or requirements under the Act.
- To work in accordance with the health and safety training that you have been provided.
- To notify the Business Partner for health and safety in the workplace of any unsafe condition, hazard, or risk that you identify.

### **2.8 Equal Employment Opportunity and Workplace Diversity**

We believe that a culture of equality, diversity and inclusion not only benefits our organisation but supports wellbeing and enables our people to work better because they can be themselves and feel that they belong.

As an employee of the Council, we expect you, and every one of our people, to take personal responsibility for observing, upholding, promoting, and applying Equality, Diversity, and Inclusion. Our culture is made in the day-to-day working interactions between us, so creating the right environment is a responsibility that we all share.

Any dealings that you have with colleagues, or third parties must be free from any form of discrimination, harassment, victimisation, or bullying.

If any of our people are found to have committed, authorised, or condoned an act of discrimination, harassment, victimisation or bullying, we will take action against them including (for those to whom it applies) under our Disciplinary Procedure.

### **2.9 Employee Appearance**

Your dress style must reflect appropriate workplace health, safety, and security considerations applicable to your job and work environment. If you are attending a meeting with external parties or presenting a report at an Executive or Council meeting that is open to the public or broadcast on the internet, you should wear smart workplace clothing and avoid wearing attire that might be considered by an average member of the public to be too casual or too informal for the role you are fulfilling.

If you are required to wear Personal Protective Equipment (PPE) as part of your job role, you must ensure that this is worn and in compliance with the relevant Risk Assessment / Safe System of Work.

If you are required to wear a uniform as part of your role, you must ensure that this is worn during working hours. If you are wearing this uniform outside of the workplace, you should remember that during this time, you remain recognisable as an employee of the Council and therefore, you must ensure you comply with this Code of Conduct.

### **2.10 Driving on behalf of the Council**

While driving Council or your own vehicle for work purposes, employees must comply with traffic legislation, be conscious of road safety and demonstrate safe driving and other good road safety habits.

You must hold a current driver's licence for the category of the vehicle you are driving and must upload this into business world on an annual basis. You must also have business cover on your insurance.

You must notify your line manager or HR if your driving licence has been suspended or cancelled, or has limitations placed upon it, including any penalty points.

The following actions while driving on Council business will be viewed as serious breaches of conduct and may lead to disciplinary action up to and including dismissal:

- Drinking or being under the influence of drugs while driving.
- Driving while disqualified or not correctly licensed.
- Reckless or dangerous driving causing death or injury.
- Failing to stop after a collision.
- Acquiring penalty points leading to suspension of licence.
- Any actions that warrant the suspension of a licence.
- Bringing the Council into disrepute.

Please note that this is not an exhaustive list and will depend on whether you are required to drive for business purposes.

### **2.11 Social and Environmental Protection**

The Council has declared a climate emergency and is committed to doing our bit to address and help tackle the challenge of our generation: not only around climate but also the less well publicised biodiversity crises affecting our planet.

We must consider the environmental impact of the services we deliver and consider ways in which we can minimise these impacts such as through reducing consumption, waste minimisation, energy efficiency, technology and through procurement which takes into account the environmental impact of products and services and supports the purchase of sustainable products.

## **3. Protecting the Council and our Employees**

### **3.1 Conflicts of Interest**

A conflict of interest is any activity that is inconsistent with, or opposed to, our Council best interests or that gives the appearance of impropriety or divided loyalty. You must not place yourself in a situation within which you could derive or be perceived to derive personal benefit from actions of decisions made in your official capacity as an employee. This also applies to any perceived or actual benefit.

Some examples of conflicts (or perceived conflicts) between personal interests and our public duties as a Council which should be declared and, in some cases, avoided include:

- Employees who have access to computer databases of customers/updating their own personal records, or those of close relatives.
- Liaising with a supplier who employs one of your close relatives.
- Being contracted to provide services to the Council outside of your paid employment.
- Generating work which involves travel to provide an opportunity to visit friends.
- Involvement with an interview panel when a relationship exists with one of the applicants.
- Involvement in a procurement process where a relationship exists with one of the suppliers.
- If you or a close family member or business partner submit an application for Planning Permission, Listed Building Consent or similar.

If you are unsure about a personal conflict, talk to your manager or a member of the HR team in the first instance.

Additionally, you must not use your position to obtain favourable treatment for any individual with whom you have a significant relationship, this applies to both friends and family as well as any individual you may have a contractual relationship with – such as a landlord or employee. If any member of employee finds themselves in a position where they are dealing with a business matter which involves or is likely to involve a family member or other persons with whom, they have a significant relationship, they must take immediate advice from HR, Procurement or their Line Manager. For the avoidance of doubt nothing in the paragraph is intended to affect the refer a friend scheme.

If you believe you have a potential conflict involving a family member, or other individual, you also have an obligation to declare it as part of the annual declaration process. Completion of the annual declaration is mandatory for all employees.

### **3.2 Dealing with a Potential Conflict of Interest**

Line Manager(s) together with HR are required to review any conflicts of interest that are declared and to determine whether any actions are required to mitigate the conflict. There may be occasions where the conflict is profound and acute. In such cases it may be necessary to consider a range of possible actions which may include, but not limited to:

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

### **3.3 Confidential Information**

As an employee of the Council, you may obtain, have access to or be responsible for Council information that has not been made public and is still confidential. You must never disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required to by law.

You must not prevent another person from gaining access to information to which that person is entitled by law. You must not disclose confidential information for your own personal use or for use by anyone else known to you, or to the disadvantage or the discredit of the Council or anyone else.

You must always observe the provisions of the Data Protection Act 2018, the Freedom of Information Act 2000, and the Council procedures for the release of personal information held about other employees or members of the public. Breach of confidentiality may be considered a disciplinary offence, which could result in dismissal.

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When you leave your employment with the Council, you must still respect the confidentiality of official information that may have been available to you in the course of your duties and not use this information for private, commercial or political gain.

### 3.4 Data Protection

All employees, whether permanent or temporary, have a responsibility for the protection of data and are required to adhere to the Data Protection Policy, along with any associated procedures and to attend any associated training.

All information and data must be handled sensitively and processed in accordance with the Council Data Protection Policy. In particular, no employee shall divulge personal information regarding any employee, person or contractor, having dealings with the Council and information relating to tenders or other such issues.

All Employees must:

- Understand the main concepts within the UK General Data Protection Regulation ('GDPR') requirements, these include the six principles, 'Lawful basis for processing' and 'Right of an Individual.
- Identify and report any risks to the security of personal data processed by the Council to their line manager or the Information Asset Owner.
- Assist their customers/service users to understand their rights and the Council responsibility regarding UK GDPR.
- Identify and report any subject access requests to the Data Protection Officer (DPO) so that they can be processed in accordance with the UK GDPR requirements.

Under the Data Protection Legislation, individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information. If you receive a request to see personal data, please refer to the Council Data Protection Officer for further information and contact [data.protection@publicagroup.uk](mailto:data.protection@publicagroup.uk).

If you become aware of a data protection breach, this must be reported to the Data Protection Officer (DPO) via email at [data.protection@publicagroup.uk](mailto:data.protection@publicagroup.uk) or call 01993 861194.

This should be done at the earliest possible stage as the Council has a duty to report any personal data breaches to the Information Commissioners Office (ICO) with 72 hours of the breach.

If you are able to rectify the breach, this should be done immediately, however, the breach must still be reported.

### 3.5 Outside Employment and Voluntary Work

You must obtain permission from your manager before taking any other paid or unpaid employment or operate an outside business. Even with permission, you must not:

- Participate in an outside employment activity that could have an adverse effect on your ability to perform your duties at the Council or conflict with our work.
- Ensure that any additional employment does not conflict with the interests of the Council or affect your ability and credibility to do your job.
- Use any of our assets, including your ICT equipment, for your other job/business, unless that job or business is via a contract of the Council.

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- Use your position to solicit work for you outside employer/business or to obtain favoured treatment.
- Use our confidential information to benefit your other employer, outside business or invention.

Voluntary work must be declared and must not conflict with your role or your ability and capacity to fulfil your contractual obligations to the Council.

### 3.6 Declaring Conflicts of Interest

To ensure that the Council is aware of any potential conflicts of interests, it conducts an annual employee declaration process, which requires employees to update their information and disclose any related party transactions. This is a mandatory requirement, and you are required to complete this form promptly when requested. You also have the ongoing duty to keep this information up to date and any changes throughout the year must be notified to the Business Manager for Governance.

### 3.7 Workplace Relationships and Management of Relatives

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

If you are in a personal relationship with a Colleague, Line Manager, Councillor, Contractor, or any other person working for or with the Council, we ask that this is declared through your annual employee declaration.

If you think the personal relationship in the workplace may create a conflict of interest or be perceived to create a conflict of interest, then you should raise this with your Line Manager initially with the aim of mitigating any potential conflict in a sensible and proportionate way. The Line Manager should seek guidance from HR where required. If you do not feel comfortable raising this with your Line Manager, this can be reported directly to HR or to an alternative Manager.

Where a former relationship causes an adverse impact or a conflict occurs, this should also be considered and declared or managed in the same way. If the individuals involved in the relationship do not believe that there is any conflict of interest, then no further action is required.

If there is any doubt, then advice should be sought from a Line Manager/HR.

Conflicts can occur in the following cases:

Line-management activity.

Recruitment, promotion or selection processes, including tutoring, mentoring and coaching. Decisions relating to disciplinary, Unsatisfactory Performance Procedures (UPP) or grievance procedures.

Decisions related to pay or remuneration, including overtime.

Decisions regarding access to training or Continuing Professional Development (CPD).

Decisions (e.g. Deployment), that may lead to perception of unfairness by those involved in the relationship or by others.

If you find yourself in a situation where you may be in a position to influence an outcome relating to someone you have a personal relationship with, it is your responsibility to highlight this, failure to do so may result in disciplinary action being taken against you.

We expect you to act professionally when working with a relative or with someone with whom you are in a personal relationship with and not allow your relationship to disrupt the workplace or interfere with your work or judgement. You should seek advice from your manager or HR if there are any problems.

It is your responsibility to ensure you notify HR should your personal situation change, failure to do so may result in disciplinary action being taken against you.

### **3.8 Gifts Hospitality & Sponsorship**

The Local Government Act 1972 states that an employee shall not “under colour of his office or employment accept any fee or reward other than their proper remuneration (i.e. salary/ pay)”

Therefore, you must not accept any fee or reward for work done or undertaken for the Council other than your pay and allowances as set out in your contract of employment without seeking prior approval.

If you have been invited by an outside organisation to attend a hospitality event, including but not limited to, breakfast, lunch, dinner, sporting event, seminar/conference, social or cultural event, and you wish to accept the offer, your acceptance must be authorised in advance by a manager.

You must not accept hospitality from any organisation that is likely to result in a conflict of interest in respect of decisions made by the Council, and other officers. This also applies where the invitation is considered to be personal but arises from a link with an organisation/contractor as a consequence of your role within the Council.

Any employee that is authorised to accept hospitality must remember that they are representing the Council and that all terms and conditions of service still apply.

It is an offence under the Bribery Act 2010 to accept gifts loans, fees, or rewards as an inducement to act in a certain way in your official capacity.

You must not accept payment from a third party that is known to be or suspected to be, offered with the expectation that it will obtain a business advantage or where such a business advantage will be provided in return by the Council.

You must be particularly sensitive to the timings of offers of gifts or hospitality in relation to decisions that the Council may have taken, or be about to take, which affect those providing the gift or hospitality.

A one-off gift of a low nominal value (less than £25) will generally be authorised for acceptance provided it does not compromise your position, or that of the Council. With regards to high value or regular gifts/offers of hospitality, it must be demonstrated there is a genuine business reason and/or need to accept any such offer.

If an external organisation wished, or is sought to sponsor a Council activity, the rules concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Where the Council wishes to sponsor an event, or service, employees or

## Constitution of West Oxfordshire District Council

members of an employee's family must not benefit until full disclosure of interest has been made and approved in advance by the CEO / Head of Paid Services.

All sponsorship and offers of hospitality, regardless of whether it is accepted or not must be recorded using the Gifts, Hospitality and Sponsorship Approval Form. Failure to do this may lead to disciplinary action up to and including dismissal.

Please refer to the Corporate and Individual Gifts, Hospitality and Sponsorship Process.

### 3.9 Bribery, Corruption and Fraud

The Council will not tolerate any instances of bribery, corruption, fraud, or theft. This includes abuse of position and will result in disciplinary action and may also result in criminal proceedings against you. Employees must ensure they are familiar with the Counter Fraud and Anti-Corruption Policy.

Contract and procurement fraud, both internal and external, is not acceptable under any circumstance. You must act with integrity and honesty in all your business activities, and you must be particularly vigilant if your role involves any of the following:

- Raising requisitions for goods and services;
- Authorising the procurement of goods and services;
- Writing of specifications or reviewing tenders for the supply of goods and services;
- Contract management or monitoring; or
- Amending or creating suppliers or customers in Business World.

### 3.10 Working with Contractors

If you have a relationship or a business, of a private nature with external contractors, or potential contractors, this must be disclosed to the appropriate manager and recorded on your annual declaration form. Refer to section 3.1 of this document.

Orders and contracts must be awarded on merit and by fair competition against other tenders. No special favours should be shown to business operated or controlled by, for example, friends, partners, or relatives in the tendering process. You must comply with the Contract Procedure Rules of the Council at all times.

### 3.11 Public Comment on Council Policy and Administration

It is important that enquiries from the news media are properly handled in order to maintain effective public relations and to protect the Council's reputation. As such, employees must not deal directly with the press or the media unless required to do so in the course of their work or they have been expressly authorised by the Communications and Marketing Team. Approaches from all press, radio, TV stations or specialist press for information or comment on issues affecting the work of the Council must be referred to the Communications and Marketing Team, who will discuss the nature of the story and then contact the appropriate officer or member asking them to respond. Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.



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Any invitations to undertake lectures or presentations at conferences or seminars in the public domain, or any literature being produced for publication concerning any Council matter must be authorised by the Communications and Marketing Team.

It is important that no financial information is released by any employee. Please refer any such requests to the Director of Finance and Section 151 Officer.

Employees should not publicly express personal opinions on Council Policy, activity or administrations in a way that would bring the Council into disrepute.

### **3.12 Use of Social Media Accounts**

You should be aware that social networking websites are public forums, and you should not assume that your entries will remain private. When communicating via social media you must not conduct yourself in a way that brings the Council or any employee or councillor into disrepute or disclose information that is confidential to the Council. If you do, even if your social media is a personal site, disciplinary action can still be taken, up to and including dismissal.

It is advised that unless required, you remove any connection to the Council from your personal social media sites and not state who you work for. It is understood that some sites, such as LinkedIn require employment details as the site is about increasing business connections, however, sites such as Facebook, Instagram and other similar sites should ideally not include references to your employment. This is both for Employee protection and to prevent potential disciplinary action.

You must not use your personal social media sites when conducting work for the Councils.

When using any social media platform, you must follow the guidelines set out in Annex B.

### **3.13 Personal Investments**

Council employees must consider any personal investments they have which give rise to a conflict of interest if the Company in which the investment is held is transacting business with the Council. If a real or apparent conflict arises you must disclose the conflict to your manager. Your manager will help determine whether a conflict exists and, if appropriate, the best approach to eliminate conflict. Your manager may advise you to update your Employee Declaration Form.

### **3.14 Using the Council Money (Public Purse)**

As public servants, you must ensure that public funds are spent in a responsible and lawful manner. You must strive to ensure value for money is realised and avoid legal challenge to the Council.

If you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the relevant Standing Orders and Financial regulations.

As an employee of the Council you must adhere to the Procurement Policy, procedures and controls.

### **3.15 Side Deals or Side Letters**

All the terms and conditions of agreements entered into by the Council, must be formally documented. Contract terms and conditions define the key attributes of the Council's rights, obligations, and liabilities and can also dictate the accounting treatment given to a transaction. Making business commitments outside the formal contracting process, through side deals, side letters, or otherwise is unacceptable. You must not make any oral or written commitments that create new agreements or modify existing agreements without obtaining approval through the formal contracting process.

### **3.16 Political Activities**

You must ensure that your right to engage in political or professional activities does not result in an actual or perceived conflict of interest with your work and you should ensure that you are able, and be seen to be able, to remain unbiased in the performance of those duties. You must not allow your own personal or political opinions to interfere with your work and you must not use the Council assets (including work time, premises, equipment, or funds) to personally support candidates or campaigns.

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

Employees who are politically restricted are:

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

### **3.17 Working with Members**

You must treat all political groups and individual Councillors equally, fairly and remain politically neutral at all times. You must provide professional, impartial, and effective support, to enable Councillors to fulfil their role, in and on behalf of, the Council.

You must not seek to influence or lobby a Councillor with regard to personal issues.

It is important that there should be good working relationships between senior officers and Leaders/Members of the Executive and Chairs of Committees. However, such relationships must not be allowed to become so close as to cast doubt either on an officer's ability to deal impartially with other Councillors, or the Councillor's ability to deal impartially with other employees.

### **3.18 Trade Union Representatives**

If you are a workplace representative of a trade union or a professional association, you must ensure that when you make a public comment, it is clear that any such comment is made on behalf of the union or association you represent and not the Council. Provisions relating to time to undertake official union roles are outlined in the facilities agreement.

### **3.19 Closed Organisation**

If you are a member of any organisation that is not open to the public and in respect of which secrecy about rules or membership or conduct exists you must disclose this on the Annual Employee Declaration.

### **3.20 Community Activities and Public Positions**

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

### **3.21 Criminal Charges, Convictions and Misconduct**

You must conduct yourself in a professional manner at all times at work. Serious misconduct and/or criminal offences committed during or outside of working hours which bring you, or the Council into disrepute may be the subject of disciplinary action which could lead to dismissal. The Council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act 1974 applies, and the rehabilitation period has expired. In some circumstances, Disclosure and Barring Service (DBS) checks are conducted on successful applicants for certain positions in the Council.

Once you are an employee, you must notify the Council in writing if you are charged with any criminal offence, or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (i.e. the next working day). If you are convicted of an offence, the notification must be given immediately after you are convicted (i.e. the next working day). It should be noted that the term “conviction” includes a finding of guilt regardless of whether a conviction is recorded. Failure to notify the Council in either case will constitute grounds for disciplinary action.

### **3.22 Respecting the Council**

We expect you to spend all of your contracted hours working for the Council. Computers and software (e.g. email, internet) may only be used in line with our guidelines. The use of Council property or facilities (stationery, photocopiers, etc.) for personal reasons is not acceptable. If you want to publish any material which you have written in connection with your role you must first gain the consent of your manager. If, in the course of your work, you create copyright work (for example a procedure manual or a software programme) a patented invention, or design capable of registration, this will become the property of the Council and you may be required to cooperate in the Registration Formalities.

### **3.23 Security**

You must visibly display your Identification Badge at all times while you are on any Council premises. All employees are required to challenge anyone in an employee and/or secure area of the Council premises without either an Employee ID or Visitor’s Badge.

You must not allow any individual not displaying an ID Badge to follow (“tailgate”) you into any secure area of the Council premises.

If you come to work without your badge, you must report to the Council reception point to collect and use a temporary replacement. If you lose your ID Badge, you must report it immediately to your manager. You will be required to pay for a replacement.

If you have a visitor coming to see you at the Council premises, you must ensure that they sign in/out at reception and are issued with a visitor badge. You must ensure that they are escorted around the building whilst onsite.

### **3.24 Use of Information Technology**

Employees must use any ICT equipment or facilities provided by the Council for use in the course of their employment in a proper and responsible manner. The Council is entitled to expect at least the same standard of care of its property as employees give to their own property.

Employees must adhere to the Council ICT Acceptable Use Policy and associated guides at all times. This Policy outlines the obligations on the part of Council employees and other contractors regarding the acceptable use of Council owned ICT devices and the steps the Council may take to ensure security compliance.

The content of the Council IT resources and communications systems are the property of the Council. Therefore, employees should have no expectation of privacy in any message, files, data, document, telephone conversation, social media post conversation or message, or any other kind of information or communications transmitted to, received, or printed from, stored, or recorded on the Council IT and communications systems.

The Council reserves the right to monitor, intercept and review, without further notice, an employee's use of the IT resources and communications systems, including but not limited to emails, social media postings and activities, to ensure that its rules are being complied with and for legitimate business purposes.

Failure to follow the ICT Acceptable Use Policy may lead to disciplinary action under the Council Disciplinary Policy.

### **3.25 Internal Audit, Counter Fraud and Risk and Opportunity Management**

The Council is subject to Internal Audit services and Counter Fraud Inspections and Investigations. All employees have a responsibility to contribute to this work, and where actions have been agreed, and you are responsible for progressing that action, it is your responsibility to ensure it is addressed within the agreed timescale.

The Council has a risk and opportunity management framework. All employees have a role to play in the identification and assessment of risk and the implementation of controls, where applicable.

### **3.26 Reporting Breaches of the Code and Whistleblowing**

If you are concerned about any practice you see in the Council which you think conflicts with the Code of Conduct, you should obtain advice from your Manager, Monitoring Officer or Trade Union representative, or any other appropriate person as identified in the Council policies referred to in the Code of Conduct.

The Public Interest Disclosure Act 1998 and Council Whistleblowing Policy can provide safeguards for employees and public officials who disclose unlawful and improper conduct including breaches of this Code.

Public Interest Disclosure / Whistleblowing concerns should be raised with a member of the HR Team, Internal Audit or the Counter Fraud and Enforcement Unit. Please refer to the Whistleblowing Policy for other ways to report concerns.

Any suspicion of money laundering must be reported in the first instance to the Director of Finance and Section 151 Officer. Please refer to the Council Proceeds of Crime and Money Laundering Policy for specific information.

### **3.27 The role of a Manager at the Council**

As a manager, you have a responsibility to set a good example for employees through your own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations, behaviours, and the standards as set in this Code of Conduct.

You should ensure that you understand your responsibilities under relevant financial, legal procurement, technological, human resources, and other relevant policies and procedures, maintaining the principles of accountability, continuous improvement, fairness, flexibility, and equity in the workplace.

You should ensure that employees understand performance standards expected from them and objectively assess their performance against these standards. This should be achieved through the Council appraisal process and regular one-to-ones. As a Manager, you must ensure that your employee received an annual appraisal, which is reviewed as part of your one-to-one meetings. If an employee is not meeting the expected performance standards, you should refer to the Performance Improvement Procedure.

You must ensure that relevant legislation, delegations, and Council policies and procedures are accessible to all employees in your business area, and that both yourself, and they understand their obligations under this Code of Conduct.

You should ensure that all employees who report to you are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback, and work conditions needed to achieve them.

You are required to act promptly, thoroughly, and fairly when responding to, or investigating grievances and reports of breaches of the Code of Conduct. To avoid any accusation of bias, you must not be involved in the appointment of any applicant if you are a relative or friend to them.

Similarly, you must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or friend. If you are in any doubt, you should discuss the matter with your manager.

## Nolan Principles

### Selflessness

Holders of public office should act solely in terms of the public interest.

### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

### Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

### Honesty

Holders of public office should be truthful.

### Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### Social Media Guidelines

There is often a fine line between the use of social media as a work tool and your personal use as an individual outside of your work role. Sometimes your opinions may conflict so you must take care to separate the two when that happens.

The Council recognises that many employees make use of social media in a personal capacity. While you may not be acting on our behalf, you must be aware your actions can damage the Council if you're recognised as being one of our employees.

If you use social networks or blogs for personal use and have indicated that you work at the Council, you should consider using a disclaimer that states that opinions on this site are your own. An example: 'The views expressed are my own and don't reflect the views of my employer.'

When posting on social media you should:

1. Always be mindful of the impact your contribution might make to our reputation.
2. Remember you are personally responsible for all content you publish.
3. Not upload, post or forward any content that is abusive towards your colleagues, members of the public or the Council as an organisation. It could result in disciplinary action if you do. This includes any content that is abusive, obscene, discretionary, harassing, derogatory or defamatory.
4. Never disclose commercially sensitive, anti-competitive, private, or confidential information. Also, do not breach copyright, for example by using someone else's images or written content without permission.
5. Be aware that what you publish will be around for a long time so consider the content carefully and also be sensible about disclosing sensitive details.
6. Remember that social media networks, blogs and other types of online content sometimes generate press and media attention or legal questions. You must refer these enquires to the Communications team.
7. Be conscious that our reputation is made by your behaviour. Everything you publish reflects how we are perceived. Please ensure you're aware of our values and reflect these.
8. Ensure that if you identify that inaccuracies about the Council have been published in a public forum, you may politely and sensitively point out the factual inaccuracies but should refrain from entering into a debate. You should also advise the Communications team that you have identified information that is inaccurate or could damage our reputation.
9. Ensure compliance with data protection legislation – for example moving the discussion to private message (Facebook) or direct message (Twitter) when personal details need to be discussed. Alternatively, ask them to contact us another way e.g. telephone.
10. Block, hide or ban abusive users.
11. Pay particular attention during the pre-election periods, when special care needs to be taken to ensure that any content you post, share or like is not seen as promoting any political group or individual candidate.
12. Consider the privacy settings on your social media accounts if you are in a public facing role where your name may be published as part of your job. Consider limiting access to your profiles so that people cannot look up your personal accounts and information.



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You must not use your personal social media sites when conducting work for the Council. Where the internet or social media is required for enforcement purposes, please refer to the Use of the Internet and social media for Investigations and Enforcement Policy.

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## Corporate and Individual Gifts, Hospitality and Sponsorship Process

### Introduction

In accordance with West Oxfordshire District Council's ('the Council's) Employees Code of Conduct and the Local Government Act 1972, employees shall not "under colour of his office or employment accept any fee or reward other than their proper remuneration (i.e. salary/ pay)". As such, you must not accept any fee or reward for the work you do other than your pay and allowances as set out in your contract of employment without seeking prior approval.

Information is collected to support compliance with The Bribery Act 2010, Data Protection Legislation and the Council Counter Fraud and Anti-Corruption Policies. It is an offence under the Bribery Act 2010 to accept gifts, loans, fees or rewards as an inducement to act in a certain way in your official capacity.

Information provided will be managed by the Business Manager, Governance in Publica and access will be restricted and may only be viewed by authorised officers (those who can authorise the acceptance of gifts, hospitality & sponsorship) and the attendees of the Council Governance Group which includes the Monitoring Officer, Audit, and Counter-Fraud. The Governance Group will monitor compliance as a standard agenda item. The Council may choose to publish information and will have to comply with any requests for information under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 and deal with requests from other bodies such as the police and regulatory agencies, in those circumstances.

This process sets out what you as an employee are required to do if you are offered a gift, hospitality, or sponsorship in the capacity of your office or employment, whether you intend to accept or not.

### Scope

This policy applies to all employees of the Council at West Oxfordshire District Council. This process should be read in conjunction with the Code of Conduct and Council constitution.

### Definitions

Definitions of corporate hospitality, gifts, hospitality or sponsorship can include a wide range of benefits, below are some examples of what would be covered under this process.

Please note that this is not an exhaustive list.

### Gift

Any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value. Examples could include flowers, alcohol, chocolates, vouchers, discounts, or cash. Employees are often given branded / promotional gifts from suppliers, such as notebooks, calendars and pens. As these have a nominal value, these can be accepted without declaration.

### Individual Hospitality

Offers of meals, beverages, travel, accommodation, and other expenses in relation to attendance at meetings, events, conferences, award nights, education, and training etc. Typical examples could include business meals, client trips, free invites to conferences, seminars, cultural and sporting events.

### Corporate Hospitality

Offers of gifts and / or hospitality to all employees of the Council. This is likely to be something that would be a one-off offer to all employees, and typical examples would include free tickets to sporting events, and local events taking place in our District.

### Sponsorship

Support (financial or otherwise) of Council activities by an external body.

### What should you do if you are offered any of the above?

#### Accepting a gift and / or hospitality

- Individuals should not accept gifts and / or hospitality that may affect or be seen to affect their professional judgement. This overarching principle should apply in all circumstances.
- As a Public Body, it is essential that members of the public have confidence in the integrity, impartiality, and honesty of employees. Any gifts, hospitality and sponsorship arrangements should ensure this position is not jeopardised.
- Individuals should not accept payment, gift and / or hospitality from a third party that is known to be, or suspected to have been, offered with the expectation that it will obtain a business or any other advantage for them from the Council. Employees should be aware that it is a criminal offence under the Bribery Act 2010 to accept a bribe.
- Gifts from organisations involved in an active tender process must never be accepted.
- Under no circumstances are individuals allowed to accept personal gifts of cash or cash equivalents e.g., gift vouchers, or token offers of remuneration to attend meetings whilst in a capacity of working for or representing the Council, whatever their value and whatever their source.
- Modest gifts and / or hospitality of a value of £25 or under, may be accepted, however they must be declared on the gifts, hospitality, and sponsorship register. A common-sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Individuals should not ask for any gifts or hospitality.

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- Employees are advised to consult with the Monitoring Officer or with the Business Manager for Governance, if they are unsure as to whether to accept any offers of gifts and / or hospitality.
- If the gift and / or hospitality is also offered to a family member, such as an invite to you and your partner to attend an event, you must seek advice from the Monitoring Officer / Business Manager for Governance.
- Gifts and / or hospitality at a value of over £25 should be treated with caution and only accepted on behalf of the Council and not in a personal capacity. Acceptance of a gift over £25 must be approved. Please see approval below.
- Multiple gifts and / or hospitality from the same source over a 12-month period should be treated in the same way as single gifts over £25 where the cumulative value exceeds £25.
- Whether a gift and / or hospitality is accepted or not, it must be declared on the gifts, hospitality, and sponsorship register.

To complete the register in relation to gifts and /or hospitality with a value of £25 or under – click [here](#)

### Approval Process for Gifts and / or Hospitality

For any gifts and / or hospitality over £25, approval must be obtained prior to acceptance. In the first instance, your request should be emailed to [employee.gifts@publicagroup.uk](mailto:employee.gifts@publicagroup.uk) detailing the following information:

- Your name
- Job Title
- Place of work
- Detail of the gift and / or hospitality offered, by whom, the reason why this has been offered / context of offer, estimated value and why you wish to accept the offer.

The Business Manager, Governance will then seek the required authorisation from the Council. Authorisation can be provided by:

Councils: Chief Executive, Section 151 Officer or Monitoring Officer

If one of the Management who is an authorising officer has been offered gifts and / hospitality, authorisation can be provided by another authorising officer. For example, where the request is from the Chief Executive, authorisation can be given by the Monitoring Officer and / or Section 151 Officer of the Council.

Once approval has been obtained, you will be notified and must complete the register in relation to gifts and /or hospitality – click [here](#).

### Corporate Hospitality

If a company and / or individual offers Corporate Hospitality or gifts, before this is offered to employees, it must be approved by the Management Team.

In the first instance, this should be sent to the Business Manager, Governance, who can coordinate the authorisation process and register this onto the gifts, hospitality, and sponsorship register.

Once approved, this can then be communicated to employees and should an employee wish to take up the offer e.g., a free ticket to a sporting event, they must declare this on the gifts, hospitality, and sponsorship register.

### Sponsorship

Where an outside organisation wishes to sponsor or is asked to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and / or hospitality apply. As a Public Body, it is essential that members of the public have confidence in the integrity, impartiality and honesty of employees. Any sponsorship arrangements should ensure this position is not jeopardised.

Particular care must be taken when dealing with contractors or potential contractors (i.e. contractors who could bid for Council work). If you are unsure, please speak to the Procurement Team in relation to contractors.

Where the Council wishes to sponsor an event or service neither you nor any person connected with you must benefit personally from such sponsorship in any way. Employees should seek guidance and inform the Council if they are involved with any event or service that the Council proposes to sponsor.

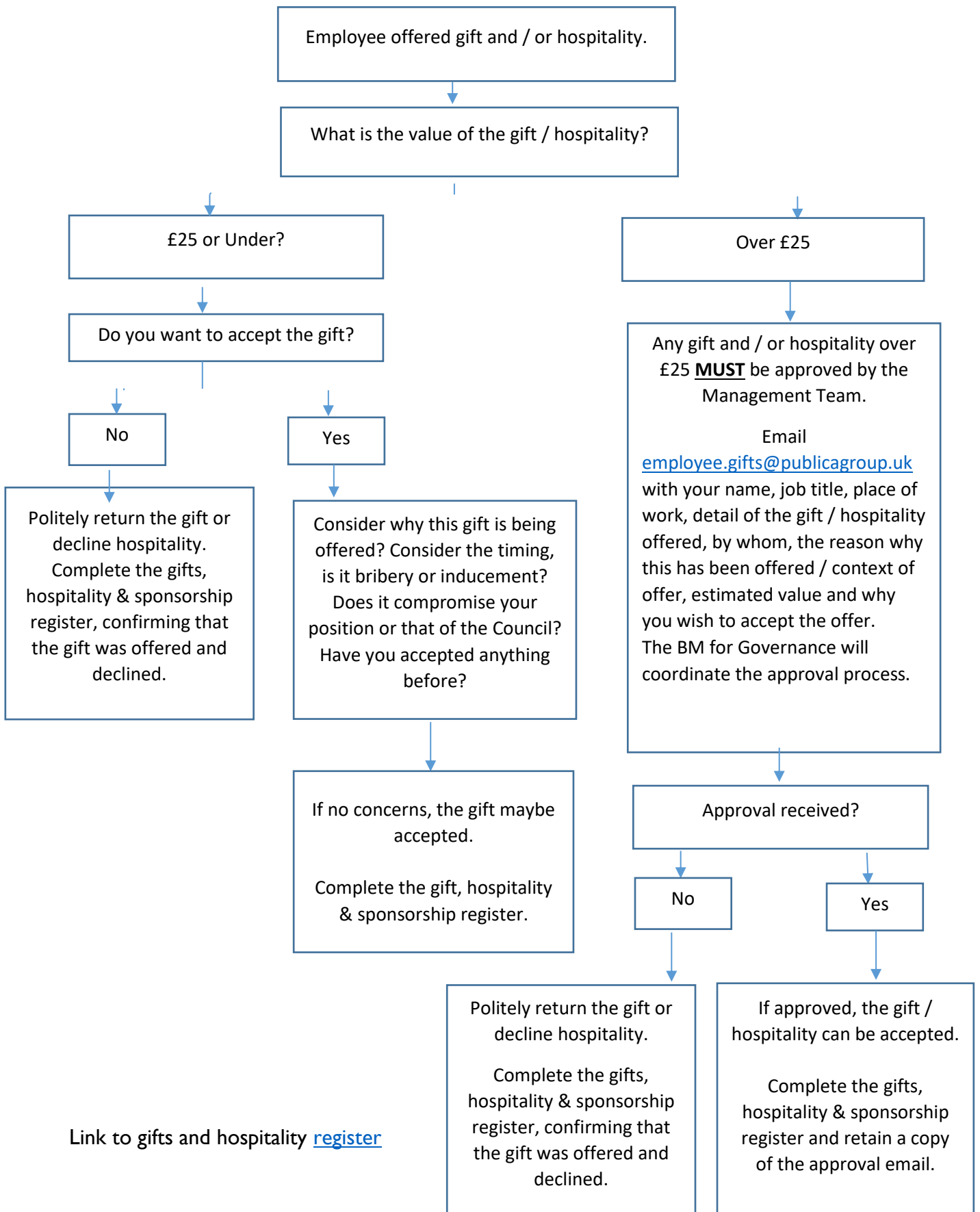
Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved with your work as an employee and any outside interests.

In all cases of sponsorship, there must be full disclosure of the proposed arrangements and consultation with the Management Team at an early stage. In each arrangement for sponsorship, care shall be given to recording the arrangement and the decision-making process so that there is a clear audit trail for the purposes of transparency and accountability and as well as a declaring this on the gifts, hospitality, and sponsorship register.

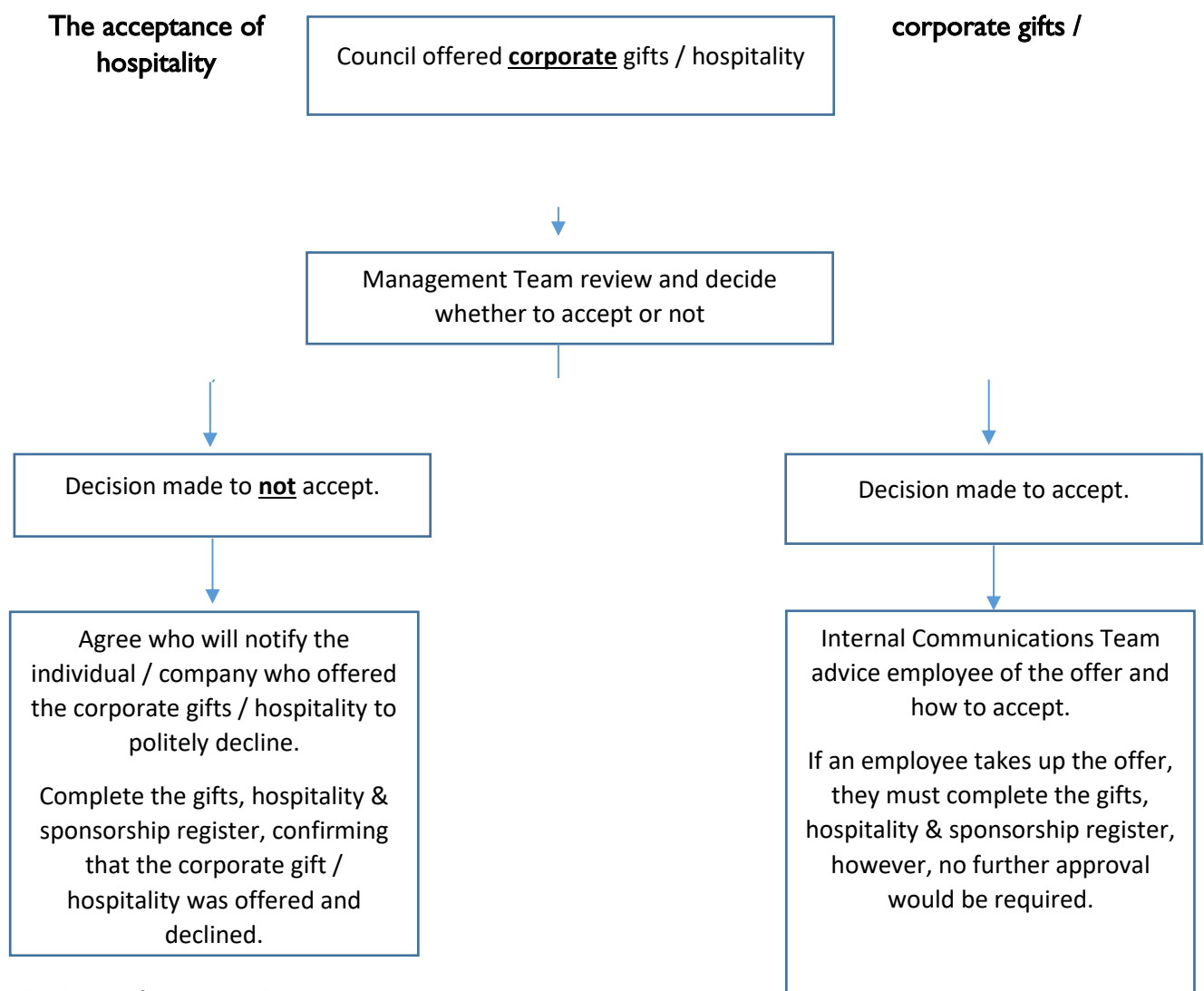
### Remember

All sponsorship and offers of gifts and / or hospitality, regardless of whether it is accepted or not, or authorised or not, **must** be recorded using the Gifts, Hospitality and Sponsorship Approval Form. Failure to do this may lead to disciplinary action up to and including dismissal.

The acceptance of Gifts and / or Hospitality Flowchart



Link to gifts and hospitality [register](#)



Link to gifts, hospitality & sponsorship [register](#)



## Part 6Q: Members Planning Code of Good Practice

### Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning local planning authorities and the members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel. LLG then worked with the Local Government Association to publish the Code as part of a suite of guidance.

The Model Planning Code and Protocol was first published in 2003, was refreshed in 2007. Following the Localism Act 2011's introduction of the new law on members' conduct, the clarification in the law on bias and predetermination in that Act and in the courts<sup>1</sup> and commentary from the Committee on Standards in Public Life in better defining the Nolan Principles, it was reviewed and updated in 2014.

In 2017, the UK Supreme Court stated that the Code and Protocol "*offers sound practical advice*"<sup>2</sup>.

The Model Council Planning Code and Protocol has thus now become a central plank of the guidance used by local authorities to give their members and others advice and to direct the business of the planning decisions to ensure fairness and legality. Many councils have incorporated it into their constitutional documents and a number have turned its provisions into standing orders to provide binding rules of procedure. The ability to do this was confirmed by the Court of Appeal in 2023<sup>3</sup>.

As we approach ten years since that last update, we have looked again at the Code and Protocol for use by local authorities. In doing this we would wish to thank Bevan Brittan and in particular Philip McCourt, together with Sharon Bridglalsingh, Director of Law and Governance at Milton Keynes City Council.

This refresh will help in having clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.

The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only

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<sup>1</sup> R (Island Farm Development Ltd) v. Bridgend County BC [2006] EWHC 2189 (Admin), [2007] LGR 60, approved R (Lewis) v. Redcar & Cleveland BC [2008] EWCA Civ 746, [2009] 1 WLR 83

<sup>2</sup> Para 62, Dover District Council (Appellant) v CPRE Kent (Respondent) [2017] UKSC 79

<sup>3</sup> The Spitalfields Historic Building Trust, R (On the Application Of) v London Borough of Tower Hamlets [2023] EWCA Civ 917

ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so.

In reproducing the Model Council Planning Code and Protocol in 2023, we are seeking to endorse and ensure that those principles continue to be upheld.

**LLG January 2024**

**The Members Planning Code of Good Practice Revised for Adoption by West Oxfordshire District Council – Draft Version**

## **Introduction**

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons whilst not being involved if you have an interest or have pre-determined matters. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies, as opposed to having pre-determined matters, **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or their staff, and preferably well before any meeting takes place.**

### **1. Relationship to the Members' Code of Conduct**

- **Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests included in the Authority's Code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of either being named in a report made to the Standards Sub-Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.

## 2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that "*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*". It is therefore advisable that you:
  - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
  - **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct places additional limitations on you in representing that proposal
  - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
    - you should send the notification no later than submission of that application where you can;
    - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
    - you must not get involved in the processing of the application; and
    - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

## 3. Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
  - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
  - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
  - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
  - the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
  - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (*where this is granted by the authority's standing orders*) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - advise the proper officer that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the seating area for members of the Committee for the duration of that item; and
  - ensure that your actions are recorded in accordance with the Authority's committee procedures.

#### 4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Development Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Development Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

#### **In addition in respect of presentations by applicants/developers:**

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.

- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

## 5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Manager] at the earliest opportunity.
- **Do** promptly refer to the Development Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion of others in your role as a Ward Member.

## 6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular

proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Development Manager about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.



## 8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Development Manager or those officers who are authorised by them to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded having fully read the papers in advance of the meeting.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
  - **Do** have recorded the reasons for Committee's decision to defer any proposal.
  - **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes to seek advice on the best grounds to consider an overturn). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- Do** remember that meetings are live streamed and recorded.

## 11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.



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### **Part 6R: Protocol For Recording Meetings**

The Council records its own meetings which are held in public. Live streams and recordings of meetings are available to view of the Council's website.

Members of the public also have a right to record meetings held in public. This includes filming, audio recording, photographs and the use of social media and the internet at meetings.

There is no requirement to notify the Council if you intend to record a public Council meeting but, as a matter of courtesy and in the interests avoiding disruption, members of the public and the press are requested to tell a Democratic Services Officer or the Chair of the meeting of their intentions.

It should be noted that the Chair of the meeting has absolute discretion to suspend or terminate any activities that, in his or her opinion, are disruptive.

In order to avoid disruption those recording, and in particular those filming the meeting, will be required to do so from one fixed point. An individual "roaming" around the meeting room will inevitably be disruptive and will not be tolerated.

A notice is placed outside and inside each meeting room advising members of the public that the meeting may be recorded in order that they may make an informed decision as to whether or not to attend. The statutory right to record the meeting overrides any individual objection to being recorded.

The Council asks those recording the meeting:

- Not to edit the recording in a way that could lead to misinterpretation of the proceedings. This includes not editing an image or views expressed in a way that may ridicule or show a lack of respect towards those being recorded.
- To avoid recording members of the public present unless they are addressing the meeting.

Those intending to use large equipment, or wishing to discuss any special requirements are advised to contact Democratic Services (email: [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk); telephone 01993 861000) in advance of the meeting to seek advice and guidance. The use of flash photography or additional lighting will not be allowed unless it has been agreed in advance and can be done without disrupting the meeting.

At the beginning of each meeting, the Chair will ask if anyone intends to record proceedings and announce that the meeting is to be recorded should a notification have been received in advance.

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**MEMBERS' ALLOWANCES SCHEME – FINANCIAL YEAR 2023/2024  
to 2026/2027**

West Oxfordshire District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

**1. Name and Duration**

- 1.1. This scheme may be cited as the West Oxfordshire District Council Members' Allowances Scheme.
- 1.2. This scheme shall have effect for the period 1 April 2023 to 31 March 2027.

**2. Basic and Special Responsibility Allowances**

- 2.1. Subject to Section 7 of this Scheme a **basic allowance** at a rate of £5,221 per annum shall be paid to each Councillor. This is the starting figure for 2023/24 net of any uplift based on indexation for 2023/24 and the subsequent years (see 2.3).
- 2.2. Subject to Section 7 of this Scheme a **special responsibility allowance** shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in the following Table, and the annual rate of each such allowance shall be the amount specified against that special responsibility in that Table:

Special responsibility	Multiple of basic allowance	Cash value (£)
Chair of the Council	1.0	5,536
Leader of the Council	4.0	22,140
Deputy Leader	2.5	13,840
Executive Member (excluding Leader and Deputy Leader)	2.0	11,072
Chair of Area Planning Sub-Committee	1.25	6,920
Chair of Overview and Scrutiny Committee	1.0 (reduces to 0.5 each if two or more members hold this responsibility)	5,536
Vice-Chair of Overview and Scrutiny Committee	0.5 (reduces to 0.25 if two or more members hold this responsibility)	2,768
Chair of Licensing Committee	0.25	1,384
Chair of Development Control Committee	0.25	1,384
Chair of Audit and Governance Committee	0.25	1,384
Chair of Miscellaneous Licensing Sub-Committee	0.125	653
Opposition Group Leaders	0.25 for groups of two to five members, and a further 0.25 for each additional five members or part of five.	1,384

- 2.3. The basic allowance will increase annually from 1 April at the same rate as the percentage cost of living uplift in the national pay settlement for local government employees for that year (or for 2023/24, 6% if that is a higher increase than the national pay settlement). If the pay settlement is not known until after 1 April then a backdated uplift will be applied.
- 2.4. Members of the Executive are restricted to receiving one special responsibility allowance, but remaining Members of the Council may receive more than one special responsibility allowance, subject to a maximum special responsibility allowance limit equivalent to a multiple of 2.5 of the basic allowance (starting amount £13,053 per annum).
- 2.5. Any Councillor stepping down from a role with a Special Responsibility Allowance (and relinquishing all responsibility) for the purpose of taking a period of maternity or adoption leave will be entitled to receive 50% of the special responsibility allowance for up to six months. This is not contingent on the Councillor being reappointed or re-elected to their previous role at the end of their period of maternity or adoption leave.

### 3. Dependant Carers' Allowance

- 3.1. Subject to paragraph 8.5, a Councillor may, in respect of the duties and activities specified in paragraph 3.2, claim for the actual cost of care necessarily incurred in respect of children and other dependents. Payments to a partner or spouse are not permissible. Claims will only be allowed where no other statutory allowance is available. The maximum rates are as follows:
  - Childcare - £10 per hour per child
  - Dependent care - £15 per hour
  - Maximum amount recoverable in any one week - £150
- 3.2. The duties and activities in respect of which the allowance will be payable, are:
  - (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
  - (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that it is a meeting to which members of at least two political groups of the Council have been invited;
  - (c) the attendance at a meeting of any association of authorities of which the authority is a member;
  - (d) the attendance at a meeting of the executive or a meeting of any of its committees, where the authority is operating executive arrangements;
  - (e) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;



- (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- (g) attendance at briefing meetings in respect of the Council, and its Committees and Sub-Committees, and the Executive;
- (h) attendance at training events and information seminars either organised by the Council or where attendance has been authorised; and
- (i) the carrying out of any other duty approved in advance by the Chief Finance Officer for the purpose of the discharge of the functions of the authority or any of its committees or sub-committees.

#### 4. Travel, Subsistence and other Expenses

- 4.1. Subject to paragraph 7, a Councillor may be reimbursed for travel, subsistence and other expenses incurred in connection with or relating to the duties specified in 3.2 above.
- 4.2. Notwithstanding 4.1 above, the following shall be excluded from the scheme in relation to travel, subsistence and other expenses:
  - attendance at meetings of outside bodies as the local ward councillor where the issues considered by that body are local ones
  - attendance at social events unless this is attendance at such functions as the Chairman of the Council deems it proper for him/her to attend as representative of the Council
  - attendance at a meeting of an outside body for which travel, subsistence and other expenses are paid for by that body
- 4.3. The Section 151 Officer has the authority to approve additional duties falling within 3.2(i) above.
- 4.4. The rates of the allowances in respect of travel shall be as follows:

All Vehicles	Inland Revenue non-profit making rate (currently 45p per mile)
Pedal Cycles	14.9p per mile
- 4.5. Taxis should be used, and payment will be made, only where travel by other forms of public transport or by car is not possible.
- 4.6. Standard class fares only will be reimbursed.
- 4.7. Where Member(s) travel by car to a meeting, conference or for other approved purposes, together with an officer who may claim mileage at the Council's lease car rate, normally the officer should drive so that only the lower mileage amount is payable.
- 4.8. For longer journeys, where mileage claims could be very high, an amount not higher than the standard rail fare will be reimbursed, as determined by the Section 151 Officer. Members should consider this before undertaking the journey or making a claim, and seek advice in advance where possible.
- 4.9. Expenses should be claimed, and will be reimbursed, only for travel undertaken solely as necessitated for attendance at the meeting or approved event/duty.

4.10. Subsistence rates shall be at the following maximum amounts:

<b>Breakfast</b> – more than 4 hours before 11 am	£6.69
<b>Lunch</b> – more than 4 hours including lunch time between 12 noon and 2 pm	£9.24
<b>Evening meal</b> – more than 4 hours ending after 7 pm	£11.44

4.11. In respect of all the matters covered in this section, it is expected that members exercise economy and efficiency, to minimise claims. Overnight stays should be avoided where possible, and every effort should be made to ensure that bookings are made at the cheapest possible rate.

## 5. Co-optees' Allowance

5.1. Co-opted members of the Council's Committees or Sub-Committees may claim a co-optees' allowance of £75 for up to four hours and £150 for more than four hours but less than 24 hours, in respect of attendance at any meeting of the Committee or Sub-Committee of which they are a co-opted member, or at a conference or training event, where attendance is on behalf of, or authorised by, the Council.

5.2. All co-opted members of the Council's Committees or Sub-Committees shall be entitled to travel, subsistence and other expenses in accordance with the scheme applicable to Councillors, as set out in Section 4 of this Scheme.

## 6. Renunciation, and the Repayment and Withholding of Allowances

6.1. A Councillor may, by notice in writing given to the Section 151 Officer, elect to forego, assign or transfer all or part of his/her entitlement to an allowance under this scheme. The Section 151 Officer can arrange for another Councillor to benefit from that allowance or for charitable donations to be made.

6.2. Where payment of any allowance has already been made in respect of any period as specified below, such part of the allowance as relates to any such period shall be repaid to the authority. The periods are those during which the member concerned:

- ceases to be a member of the authority; or
- is in any other way not entitled to receive the allowance in respect of that period

6.3. Where a member is also a member of another authority, that member may not receive allowances from more than one authority in respect of the same duties.

## 7. Part-year Entitlements

7.1. The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of the year, that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

7.2. Where the term of office of a Councillor begins or ends in the period between 1 April and 31 March, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office

Constitution of West Oxfordshire District Council  
subsists bears to the number of days in the year.

7.3. Where a Councillor has during part of, but not throughout, a period from 1 April to 31 March such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in the year.

## 8. Claims and Payments

8.1. A claim for travel, subsistence or other expenses under this scheme shall be made in writing within two months of the date of the meeting, function or event in respect of which the entitlement to the expenses arises.

8.2. A claim for travel, subsistence, or the reimbursement of expenses shall include details of the duty/activity in respect of which the claim has arisen, and a travel claim shall specify the total number of miles travelled.

8.3. A claim for subsistence, or for the reimbursement of expenses, shall be supported by a VAT receipt, and subsistence shall be paid for the expenditure incurred, subject to the maxima set out in paragraph 4.10 above. The requirement for a VAT receipt shall include claims for the reimbursement of mileage expenses, and a claim for payment shall not be authorised in the absence of a receipt being supplied.

8.4. To facilitate the administration of the scheme and the payment of correct amounts, any Member making a claim for mileage expenses shall have provided the Council with the figures for the number of miles from their home address to the Council Offices and, where applicable, from their home to their principal place of work, and from that place of work to the Council Offices.

8.5. A claim for expenses in respect of the carers' allowance under this scheme shall be supported by a receipt from the carer detailing expenditure actually incurred.

8.6. Payments shall be made

8.6.1. in respect of basic and special responsibility allowances, in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;

8.6.2. in respect of travel, subsistence or other expenses, on the last working day of each month in respect of claims received up to the day 14 days before that date.

8.7. Where a payment of one-twelfth of the amount specified in this scheme in respect of the basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of Section 7 above, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.

8.8. A claim for the reimbursement of expenses shall not be approved if it does not comply with the requirements of the Scheme, other than with the express approval of the Section 151 Officer.

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