



# Public Document Pack Constitution

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**PART 1**  
**SUMMARY AND EXPLANATION**

**July 2023**

## **PART 1      SUMMARY AND EXPLANATION**

### **1.      The Council's Constitution**

- 1.1      Dacorum Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2      The Constitution is divided into 15 articles, which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **2.      What's in the Constitution?**

Article 1 of the Constitution sets out the purposes of the constitution. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Cabinet (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
  
- Joint arrangements (Article 10)
  
- Officers (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15).

### **3. How the Council operates**

- 3.1 A diagram showing the overall political management structure of the Council appears as Annex 1 on page 5.
- 3.2 The Council is composed of 51 Councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 3.3 Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises them on the Code of Conduct.
- 3.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council and its Committees. It does not, however, appoint the Members of the Cabinet as these are appointed by the Leader. The Council holds to account the Cabinet and the Committees.

### **4. How Decisions are Made**

- 4.1 The Cabinet is the part of the Council which is responsible for making most of the day-to-day decisions. The Cabinet is made up of the Leader who is elected by the Council, and six other Councillors who he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan in so far as they can be anticipated. If decisions are to be discussed with Council officers at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. The Leader can also appoint a Cabinet Support Member.

### **5. Overview and Scrutiny**

- 5.1 There are three Overview and Scrutiny Committees who support the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny committees also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## **6. The Council's Staff**

6.1 The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between officers and Councillors and this can be found in Part 5 of the Constitution.

## **7. Citizens Rights**

7.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

7.2 Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

7.3 Citizens have the right to:

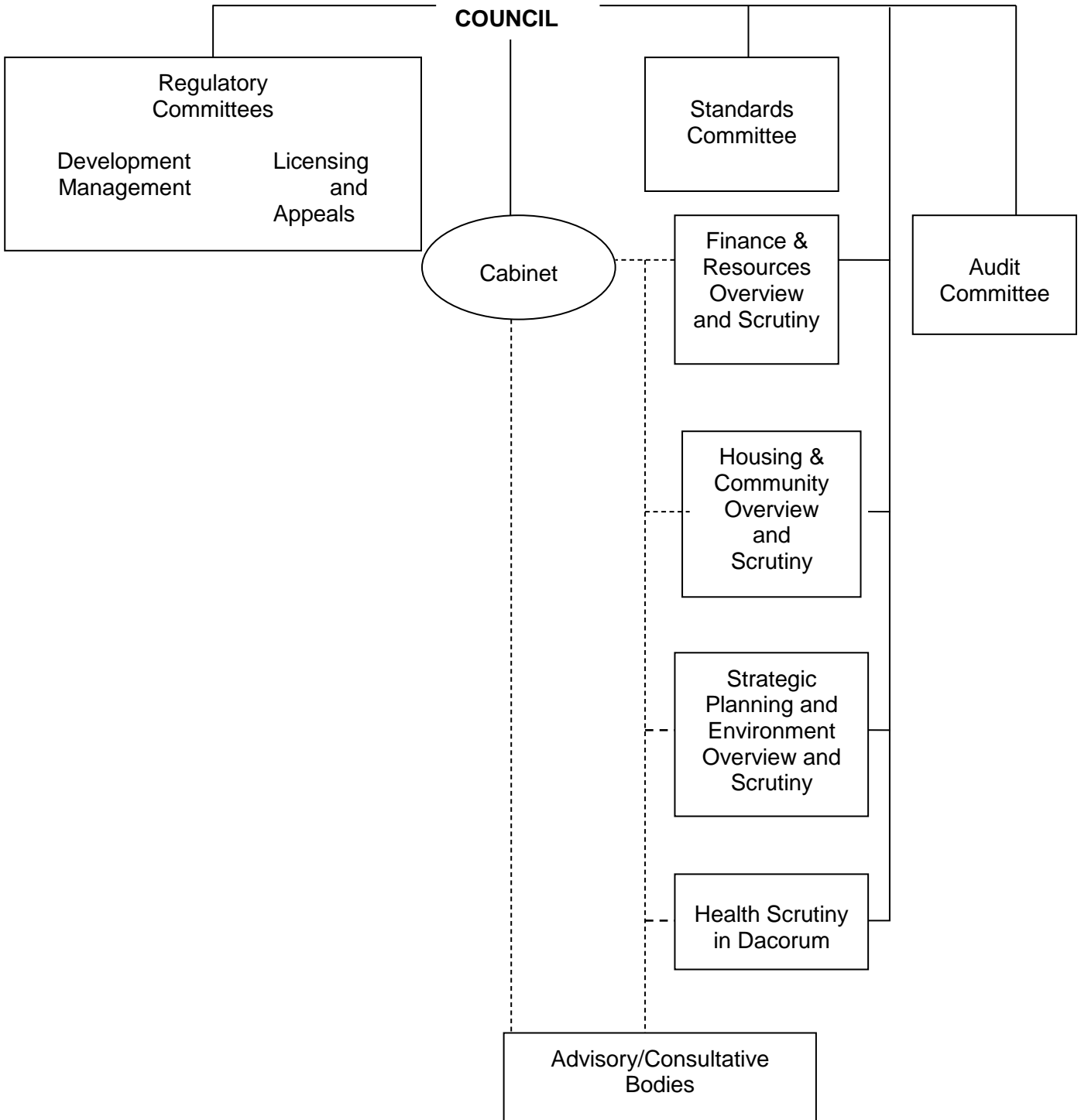
- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees and Sub-Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's public question time;
- be asked to contribute to investigations by the Overview and Scrutiny Committees;
- find out from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council, its Committees, Sub-Committees, and the Cabinet;
- complain to the Council about any action of the Council, the Cabinet, a Committee, Councillor or officer. The Council's complaints procedure is set out in a leaflet available on the Council's website at the Council's offices or from the Council's Complaints Officer;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints procedure;

- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

7.4 The Council welcomes participation by its citizens in its work. A statement of the rights of citizens to inspect agendas and reports and attend meetings can be found in Part 5 of the Constitution. For further information on your rights as a citizen please contact the Member Support Services team: (e-mail: [member.support@dacorum.gov.uk](mailto:member.support@dacorum.gov.uk)).

**Annex 1**

**POLITICAL MANAGEMENT STRUCTURE FOR  
DACORUM BOROUGH COUNCIL**



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Reporting Line

Author & Responsible Officer	Mark Brookes, Assistant Director, Legal and Democratic Services
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Table of Amendments

Date of Change	Paragraph Amended	Explanation of amendments	Authority
21/07/23	4.1	To reflect the authorities change to 6 Cabinet Members	Council May 2023



**PART 2**

**ARTICLES OF THE CONSTITUTION**

# **ARTICLE 1 – THE CONSTITUTION**

## **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Dacorum Borough Council.

## **1.3 Purpose of Constitution**

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision – making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the services that local people receive.

## **1.4 Interpretation and Review of the Constitution**

1. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.
2. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 51 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

### 2.2 Election and terms of Councillors

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.3 Roles and functions of all Councillors

- (a) **Key Roles.** All Councillors have a key role to play in the community and have an overriding responsibility for the good governance of the Borough as a whole.

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and or individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

The Leader and the Members of the Cabinet have, in addition to the above, the extra roles set out in Annexes 2 and 3 at pages 14 and 15 respectively.

**(b) Rights and duties**

- (i) Councillors will have such 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.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

**2.4 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

**2.5 Registration of Members’ Interests**

Every Member and Co-opted Member must register in the Council’s Register of Members’ Interests details of their Disclosable Pecuniary Interests and other personal interests as required by the Members’ Code of Conduct.

**2.6 Allowances**

All Councillors including the Mayor and the Deputy Mayor will be entitled to receive allowances in accordance with the Members’ Allowance Scheme set out in Part 6 of this Constitution.

**OUTLINE MEMBER ROLES**

<b>Role Title:</b>	<b>Leader of the Council</b>
<b>Responsible to:</b>	<b>The Council</b>
<b>Contact with:</b>	<b>Community, Members, Officers, external organisations and representatives and Members of Parliament, Media</b>
<b>Purpose of role:</b>	<b>To provide political leadership of the Council, to maximise available resources and to provide appropriate political and strategic direction</b>
<b>Principal Accountabilities:</b>	
<ol style="list-style-type: none"> <li>1. Provide strong leadership to the Council in the delivery of its Vision and Priorities and in the setting of high standards of good governance and ethical behaviour.</li> <li>2. Chair the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate, fulfil the agreed objectives of the Council and accord with the Constitution's principles of decision making.</li> <li>3. Develop, implement and review executive strategy to fulfil the agreed objectives of the Council.</li> <li>4. Maintain, develop and build upon good relationships between political and managerial processes to maximise the benefit gained by the community.</li> <li>5. Provide principal point of contact to all forms of media on areas of Cabinet activity, as well as the wider Council, to ensure appropriate information is provided on Council activity.</li> <li>6. Develop policy and budget priorities for the consideration of the Cabinet and for recommendation to the Council as a whole, in line with strategic objectives.</li> <li>7. Develop role as principal executive voice at meetings of the Council to provide a response to questions from members of the Council and the public.</li> <li>8. To provide the principal link between the Cabinet and the Chief Executive.</li> <li>9. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings.</li> <li>10. Provide Leadership in the setting of high standards of good governance and ethical behaviour.</li> </ol>	

## OUTLINE MEMBER ROLES

<b>Role Title:</b>	<b>Cabinet Member</b>
<b>Responsible to:</b>	<b>Leader of the Council, Cabinet and Council</b>
<b>Contact with:</b>	<b>Community, Members, Officers, external organisations and representatives and Members of Parliament, Media</b>
<b>Purpose of role:</b>	<b>Contribute to decisions made by the Cabinet on all areas within its remit. Exercise their delegated decision making powers and oversee the implementation of the activities within their specific portfolio areas.</b>
<b>Principal Accountabilities:</b>	
<ol style="list-style-type: none"> <li>1. Contribute to the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate and fulfil the agreed objectives of the Council.</li> <li>2. Contribute to the development, implementation and review of the executive strategy to fulfil the agreed objectives of the Council.</li> <li>3. Maintain, develop and build upon good relationships between political and managerial processes to maximise the benefit gained by the community.</li> <li>4. Provide principal point of contact to media on appropriate portfolio areas to provide a clear, well-informed response as required.</li> <li>5. Provide leadership on agreed key portfolio area of responsibility to establish clear strategy for implementation of areas under consideration, in line with Council objectives.</li> <li>6. Establish role as key spokesperson on issues relating to their portfolio area both internally and externally to ensure that responses are informed and up to date.</li> <li>7. To exercise those decision making powers delegated by the Leader or the Cabinet in relation to their nominated portfolio area in accordance with the Constitution's principles of decision making.</li> <li>8. Provide the link between the Cabinet and appropriate officers for their specific portfolio.</li> <li>9. Contribute to the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate and fulfil the agreed objectives of the Council.</li> </ol>	

## OUTLINE MEMBER ROLES

<b>Role Title:</b>	<b>Chairman of Overview and Scrutiny Committee</b>
<b>Responsible to:</b>	<b>The Council</b>
<b>Contact with:</b>	<b>Community, Members, Officers, external organisations and representatives and Members of Parliament, Media</b>
<b>Purpose of role:</b>	<b>To manage the meetings and business of the Committee, liaise with other Chairs and Vice Chairs of Overview and Scrutiny to prevent duplication and to act impartially when challenging Cabinet or Portfolio Holder decisions, service provision and policy development.</b>
<b>Principal Accountabilities:</b>	<ol style="list-style-type: none"><li>1. Manage the meetings of the Overview and Scrutiny Committee to ensure that they provide constructive challenge to Cabinet or Portfolio Holder decisions and to ensure that they are conducted in accordance with the law and the Council's own procedure rules.</li><li>2. Manage the scrutiny process in a manner which maintains political neutrality.</li><li>3. Liaise with Chairs and Vice Chairs to prevent duplication and decide what process will be used to scrutinise cross cutting issues.</li><li>4. To act as a spokesperson for the Committee's decisions in their specific area of responsibility.</li><li>5. Give advice to the Committee regarding their work programme to ensure that they are not overloaded.</li><li>6. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings.</li><li>7. To produce an annual report of their committee's work, to be included in the Annual Overview &amp; Scrutiny Review.</li><li>8. To keep up to date with development opportunities relevant to the role of Chairman of Overview &amp; Scrutiny.</li></ol>

## OUTLINE MEMBER ROLES

<b>Role Title:</b>	<b>Chairman of a Regulatory Committee</b>
<b>Responsible to:</b>	<b>The Council</b>
<b>Contact with:</b>	<b>Community, Members, Officers, external organisations and representatives and Members of Parliament, Media</b>
<b>Purpose of role:</b>	<b>To manage the business and meetings of the Committee in order to ensure that sound decisions are made in respect of the functions delegated to it by the Council.</b>
<b>Principal Accountabilities:</b>	
<ol style="list-style-type: none"><li>1. Manage the meetings of the Committee to ensure that Members have taken into consideration any advice given by officers or other advisers before the decisions are made and to ensure that they are conducted in accordance with the law and the Council's own procedure rules.</li><li>2. Manage the meetings to ensure that the public exercise their right to speak in accordance with the Council's Constitution. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings.</li><li>3. To monitor the performance of the Council's services within the remit of the Committee.</li><li>4. To keep up to date with development opportunities relevant to the role of Chairman of a Regulatory Committee.</li></ol>	



## OUTLINE MEMBER ROLES

<b>Role Title:</b>	<b>Chairman of Audit Committee</b>
<b>Responsible to:</b>	<b>The Council</b>
<b>Contact with:</b>	<b>The external auditor, Internal Audit, Members, Officers,</b>
<b>Purpose of role:</b>	<b>To Chair the Council's Audit Committee which is charged with overseeing the financial reporting, risk management, audit and internal control arrangements of the Council to assure the Council and the Dacorum Council Tax payers that resources are properly managed and high standards of financial probity are maintained.</b>
<b>Principal Accountabilities:</b>	
<ol style="list-style-type: none"><li>1. To ensure that the meetings are conducted in accordance with the law and the Council's own procedure rules and that the Audit Committee carries out in a proper fashion all of its functions which, in summary, are to review:<ul style="list-style-type: none"><li>• Financial statements</li><li>• Internal audit reports</li><li>• External audit reports</li><li>• Other evidence of the Council's risk management and internal control systems</li></ul></li><li>2. Working with the Chief Financial Officer to plan an effective work programme for the Committee</li><li>3. Report to Council when necessary to give assurances about the Council's financial statements, risk management and internal control mechanisms or to raise concerns of any significant weakness.</li><li>4. Receive briefings from Directors or other senior staff in order to understand the context and import of forthcoming issues.</li><li>5. To keep up to date with development opportunities relevant to the role of Audit Committee.</li></ol>	

## OUTLINE MEMBER ROLES

<b>Role Title:</b>	<b>Ward Councillor</b>
<b>Responsible to:</b>	<b>The Community, the Council</b>
<b>Contact with:</b>	<b>Community, Members, Officers, media, external organisations and representatives and Members of Parliament</b>
<b>Purpose of role:</b>	<b>To represent the Council to the Community and the Community to the Council.</b>
<b>Principal Accountabilities:</b>	
<ol style="list-style-type: none"> <li>1. To adhere to the Members' Code of Conduct and the Council's Constitution.</li> <li>2. Balance the different and, at times, competing interests identified within the ward and the Borough and represent them both and deal with these interests with regard to the Council's Code of Conduct and Constitution.</li> <li>3. Represent the views of the community to the Council and other bodies.</li> <li>4. Canvass opinion in their wards on issues and respond promptly to enquiries.</li> <li>5. Undertake case work on specific problems raised by the constituents and follow up enquiries to ensure that there is a conclusion that is communicated to the person/s concerned.</li> <li>6. To act as "Community Leaders" within the ward, by representing and becoming advocates for their communities and by bringing their views into the Council's decision making process.</li> <li>7. Collectively be the ultimate policy makers.</li> <li>8. Communicate in a variety of ways, including local meetings, the Council's work and role to residents and promote their understanding of what Councillors can do.</li> <li>9. Except for members of the Cabinet and the Mayor, through membership of an Overview and Scrutiny Committee, or individually, scrutinise and hold to account the Cabinet and Council as a whole.</li> <li>10. Contribute to the good governance of the Council.</li> <li>11. Be available to represent the Council on other bodies.</li> <li>12. To take part in the Member Development programme to help improve their role as an effective councillor.</li> <li>13. Strive to ensure that the Council delivers high quality public services which represent value for money and be committed to continuous improvement in the services the Council provides.</li> </ol>	

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council and its 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 Cabinet when decisions are being considered;
  - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council, Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;  
and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's public question time and may be asked to contribute to investigations by the Overview and the Scrutiny Committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself and its officers under the Corporate Customer Complaints Process;
  - (ii) the Local Government Ombudsman after using the Council's own Complaints Process;
  - (iii) the Council's Standards Committee about a breach of the Councillor's Code of Conduct.

### 3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## ARTICLE 4 – THE FULL COUNCIL

### 4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Corporate Plan;
  - Community Safety Strategy;
  - Development Plan Documents for which the Council is responsible;
  - Council's Corporate Work Programme;
  - Any other plan or strategy which has Borough-wide application and which the Council may decide should be adopted by full Council, as a matter of local choice.
  - Policy Statements (including any revisions thereto) relating to the licensing of alcohol and gambling required under the Licensing Act 2003 and the Gambling Act 2005 respectively;
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether the draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the consideration of the Council;
- (d) the amendment of any draft plan or strategy submitted by the Cabinet for the consideration of the Council;
- (e) the approval, for the purposes of public consultation in accordance with Regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals

associated with the preparation of alterations to, or the replacement of, a local plan;

- (f) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted except for certain planning matters such as planning applications;
- (g) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a function of the Cabinet which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (h) appointing the Mayor, Deputy Mayor and the Leader of the Council;
- (i) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (j) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (k) adopting an allowances scheme under Article 2.5;
- (l) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough
- (m) confirming the appointment of the Head of Paid Service;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) all local choice functions set out in Part 3 of this Constitution which the Council decided should be undertaken by itself rather than the Cabinet; and
- (p) all other matters which, by law, must be reserved to Council.

#### **4.3 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.4 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **ARTICLE 5 – CHAIRING THE COUNCIL**

### **5.1 Role and function of the Mayor**

- (i) The Mayor and the Deputy Mayor will be elected by the Council annually. The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions.
1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the Cabinet and Committee Chairmen to account;
  4. to promote public involvement in the Council's activities;
  5. to be the conscience of the Council;
  6. to attend and perform such civic and ceremonial functions as the Council and he/she determines appropriate; and
  7. To encourage and support the voluntary sector within the Borough.

## **ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES**

Terms of reference

The Council will appoint the Overview and Scrutiny Committees (“Scrutiny Committees”) set out below, and their Chairmen and Vice Chairmen, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters listed below.

### **Strategic Planning and Environment Overview and Scrutiny Committee**

Terms of reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolios for ‘Neighbourhood Operations, and ‘Place’. This will include any issues arising within the following areas:

#### **Planning**

Development Management  
Land Charges  
Planning Enforcement  
Strategic Planning  
Infrastructure/ Developer Contributions

#### **Place & Enterprise**

Inward Investment  
Economic Growth  
Place Strategies

#### **Communities**

Community Partnerships & VCS liaison  
Arts and Culture & Old Town Hall Theatre  
Adventure Playgrounds  
Sports and Leisure/Health

#### **Partnership Programmes**

Hemel Garden Communities  
SW Herts JSP

#### **Environmental Services**

Fleet Services  
Waste Transformation  
Garden Waste  
Commercial Waste  
Depot Services  
Refuse and Recycling

#### **Neighbourhood Management**

Clean Safe and Green

Parks and Open Spaces  
Trees and Woodlands  
Cemeteries and Bereavement services  
Parking Services  
Garage Management

**Environmental Protection**

Corporate Health Safety and Resilience  
Environmental Health  
Operations and Public Health

**Climate and Ecological Emergency**

Climate Change  
Ecological Emergency



## **Overview and Scrutiny Committees**

Terms of reference

The Council will appoint the Overview and Scrutiny Committees (“Scrutiny Committees”) set out below, and their Chairmen and Vice Chairmen, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters listed below.

### **Housing and Community Overview and Scrutiny Committee**

Terms of reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolios for ‘Housing and Community’. This will include any issues arising within the following areas:

#### **Housing Operations and Safe Communities**

HRA Housing Management  
Housing Needs and Allocations  
General Fund Accommodation Services  
Safe Communities  
Private Sector Housing  
Homeless Prevention  
Asylum and Refugees

#### **Strategic Housing and Delivery**

Strategy Quality and Assurance  
Investment and Project Delivery  
Capital programme Delivery  
Housing Delivery

#### **HRA Property Services**

Safe Homes  
Asset Management  
Commercial Housing Contracts

#### **General Fund Property Services**

Compliance  
Responsive repairs and key to key services  
Valuation and Estates  
Building Services and Facilities Management

## **Overview and Scrutiny Committees**

Terms of reference

The Council will appoint the Overview and Scrutiny Committees (“Scrutiny Committees”) set out below, and their Chairmen and Vice Chairmen, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters listed below.

### **Finance and Resources Overview and Scrutiny Committee**

Terms of reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolios for Corporate and Contracted Services, Performance and Innovation and Housing and Property Services in respect of commercial property. This will include any issues arising within the following areas:

#### **Corporate and Commercial Services**

Financial Services  
Revenues and Benefits  
Legal and Democratic Services  
Licensing

#### **Commercial Strategy and Programme**

Commercial and Capital Project Delivery oversight  
Procurement  
Contract Management  
Strategic Asset Review  
Shared Services exploration (corporate approach)

#### **Corporate Services**

Financial Services  
Revs and Bens  
Legal Services  
Democratic Services  
Licensing

#### **Commercial Strategy and Programme**

Commercial and Capital Project Delivery oversight  
Procurement  
Contract Management  
Strategic Asset Review  
Shared Services exploration – corporate approach

#### **General Fund Property Services**

Commercial property  
Compliance  
Responsive repairs and key to key services  
Valuation and Estates  
Building Services and Facilities Management

## **People**

HR, OD and Equality and Diversity  
Digital  
Transformation  
Performance and complaints  
CSU  
Project Management Office  
Corporate Governance  
Communications and Engagement  
Civic Events

## **6.2 Composition**

- (ii) A Member of the Cabinet cannot be a Member of a Scrutiny Committee.
- (ii) The Council will observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each of the Scrutiny Committees.
- (iii) The Chairmen of the Scrutiny Committees are to be appointed by the Council.
- (vi) The Vice-Chairmen of the Scrutiny Committees are also to be appointed by the Council. In the event that there is a Majority Group within the Council, one of the three Vice-Chairmen must be appointed from outside the Majority Group.

## **6.3 General role**

Within their terms of reference, the Scrutiny Committees may:

- (i) review and/or scrutinise decisions made or actions taken, in connection with the discharge of any of the Council's functions.
- (ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the Borough or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.
- (v) refer to full Council for review or scrutiny, a decision made but not yet implemented by the Cabinet.

## **6.4 Specific functions**

(a) **Policy development and review.** Overview and Scrutiny Committees may:

- (i) work with the Council and the Cabinet in the development of its budget and major policy framework by independently reviewing policy and/or developing new policies
- (ii) conduct research, community and other consultation as part of the process of policy review and development;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) carry out independent reviews of specific services;
- (v) receive internal and external monitoring reports;
- (vi) undertake work on general policy development;
- (vii) question Members of the Cabinet and/or Committees and senior officers about their views on issues and proposals affecting the Borough; and
- (viii) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny.** Overview and Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of the Cabinet and/or Committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the Borough and invite reports from them by requesting them

to address the Overview and Scrutiny Committee and local people about their activities and performance;

- (vi) question and gather evidence from any person (with their consent);
- (vii) exercise overall responsibility for the finances made available to them;
- (viii) exercise overall responsibility for the work programme of the officers employed to support their work;

(c) **Annual Report.** The Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **6.5 Proceedings of overview and scrutiny committees**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **6.6 Working methods**

The following principles should be adhered to by the Scrutiny Committees when carrying out their work:

- (a) a variety of different approaches and formats for meetings may be used;
- (b) membership should be tailored to ensure appropriate skills and expertise, and external input are brought to bear;
- (c) whenever appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (d) the declaration of interest rules shall apply;
- (e) the imposition of the party whip is regarded as incompatible with the work of Scrutiny Committees.

## **6.7 Support**

In order that the Scrutiny Committees can perform their roles properly they shall be given the following support:

- (a) effective and properly resourced support from officers;
- (b) a discrete budget;
- (c) access to the advice of the Council's Monitoring Officer and Chief Financial Officer;
- (d) the power to require officers to attend to answer questions;

- (e) specific training and development for all persons who undertake overview and scrutiny duties.
- 6.8 The Cabinet's forward plan, containing details of all the matters likely to be the subject of key decisions, shall be made available to all Members of the Scrutiny Committees at least 14 days prior to the first day upon which the forward plan will come into effect.
- 6.9 Any Member of a Scrutiny Committee may require that a matter which is relevant to the functions of the Committee be included on the agenda for, and is discussed at, a meeting of the Committee.
- 6.10 Each Scrutiny Committee may require Members of the Cabinet and officers to attend before them to answer questions. It will be the duty of Members of the Cabinet to comply with any such requirement. Each Scrutiny Committee may invite other persons to attend its meetings.
- 6.11 The Chairmen and Vice-Chairmen of all Scrutiny Committees will ensure that the work of the Committees is properly co-ordinated.
- 6.12 The Chairman or Vice Chairman of an Overview and Scrutiny Committee can request the setting up of a Task and Finish Group to assist the Committee in the carrying out of its specific functions. The procedure for appointing Task and Finish Groups is set out in the Task and Finish Groups Procedure Rules (Part 4 of this Constitution).

## **D. HEALTH AND WELLBEING COMMITTEE**

### **Terms of Reference**

To perform a non-statutory role of overview and scrutiny of matters relating to the provision of Health and Well-Being Services in the Borough by the Council and external local health providers.

- (i) The Health and Well-Being Committee will consist of 12 Members of the Council together with 2 Co-Opted Members (who shall have voting rights) which shall include 2 representatives from the Patients' Forums.
- 
- (ii) The Chairman & Vice Chairman of the Health and Well-Being Committee shall be appointed by full Council.
- (iii) The Committee will set and manage its work programme to fulfil its duty in reviewing health and well-being matters which impact Dacorum residents.
- (iv) The Committee will explore any matters affecting Dacorum and/or its residents including the assessing the impact of services provided directly

by the Council, its partners and external health providers/agencies and invite those bodies to provide updates to the committee in accordance with the Committee workplan.

- (v) The Committee will consider how the services directly in the control of the Council can best be deployed, organised and prioritised to support and promote health and wellbeing in Dacorum. To include, but not limited to: Health inequalities work; housing services including tenant liaison and support and homelessness services; provision and management of parks and open spaces; environmental health services; delivery of active travel initiatives, the development of the Sports and Leisure Strategy, economic inclusion work and the role of the Local Plan, Development Management and Place Strategies to deliver new developments which foster active and healthy lifestyles.
- (vi) To work with the Council's statutory Overview & Scrutiny committees, to ensure referral of any matters as relevant, (including those matters subject to public consultation by external health providers with local residents), for formal scrutiny.

## **ARTICLE 7 – THE LEADER AND CABINET**

### **7.1 Role**

The Leader and Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **7.2 Form and composition**

The Cabinet will consist of the Leader of the Council ("the Leader") together with two or more Councillors appointed to the Cabinet by the Leader. The number of members of the Cabinet (including the Leader) will not exceed ten.

### **7.3 Leader**

The Leader will be a Councillor elected to the position of Leader by the Full Council:

- (a) the Leader will ordinarily be appointed by the Council at the first Annual Meeting following the ordinary election of Councillors and will hold office for the period ending with the day of the first Annual Meeting after the next ordinary election of Councillors unless within that period the Leader:
  - (i) resigns from the office of Leader by giving notice in writing to the Assistant Director (Legal and Democratic Services), or
  - (ii) is disqualified, or otherwise ceases to be an elected Member of the Council, or
  - (iii) is removed from the office of Leader by a resolution of the Council.
- (b) if, for any reason, the Council fails to elect the Leader at the relevant Annual Meeting the Leader is to be elected at a subsequent ordinary meeting of the Council.
- (c) upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at an extraordinary meeting summoned for the purpose or, if the vacancy occurs as a result of removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy



shall hold office for the remainder of the original term subject to earlier termination as above.

- (d) Appointment of Deputy Leader -
- (i) the Leader shall appoint another Member of the Cabinet to be Deputy Leader
  - (ii) the Deputy Leader shall hold office until the end of the term of office of the Leader, unless he/she –
    - resigns as Deputy Leader by giving notice in writing to the Leader, and copied to the Assistant Director (Legal and Democratic Services), or
    - is disqualified, or otherwise ceases to be a member of the Council, or
    - is removed by the Leader from office
  - (iii) where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another Cabinet member in their place.
  - (iv) if for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place and, during such time, can exercise the Leader's Portfolio responsibilities and any statutory functions which are conferred solely on the Leader.
  - (v) if for any reason the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to act in his/her place.

#### **7.4 Other Cabinet Members**

Other Members of the Cabinet will be appointed by the Leader who shall give written notice of the appointment to the Assistant Director (Legal and Democratic Services). They will hold office for the period ending with the day of the next ordinary election of Councillors unless within that period:

- (a) they resign from office by giving notice in writing to the Leader, and copied to the Assistant Director (Legal and Democratic Services);

- (b) they are disqualified, or otherwise cease to be elected Members of the Council; or
- (c) the Assistant Director (Legal and Democratic Services) receives a written notice of removal signed by the Leader.

### **7.5 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

### **7.6 Responsibility for functions**

The Leader may discharge any of those executive functions which are the responsibility of the Leader and Cabinet, or may arrange for the discharge of any of those functions –

- (i) by the Cabinet,
- (ii) by another member of the Cabinet,
- (iii) by a committee of the Cabinet, or
- (iv) by an officer of the Council

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Leader and Cabinet functions.

### **7.7 Support**

The Cabinet, or any individual Cabinet Member, can request the setting up of a Task and Finish Group to assist in policy development. The procedure for appointing Task and Finish Groups is set out in the Task and Finish Groups Procedure Rules (Part 4 of this Constitution).

## **ARTICLE 8 – REGULATORY COMMITTEES**

### **8.1 Regulatory Committees**

The Council will appoint the Committees set out in Part 3 of this Constitution for the purpose of discharging those functions which are not the responsibility of the Cabinet.

## **ARTICLE 9 – MEASURES FOR STANDARDS OF CONDUCT**

### **9.1 Standards Committee**

In order to ensure that Members of the Council (including co-opted Members) observe the Council's Code of Conduct for Members, the Council will establish a Standards Committee.

9.2 The appointment and composition of the Standards Committee will be in compliance with the provisions of sections 101 and 102 of the Local Government Act 1972 and Regulations made thereunder. The Council by resolution made on 16<sup>th</sup> May 2012 resolved that the rules of political proportionality in Section 15 of the Local Government and Housing Act 1989 should not apply in respect of the Standards Committee.

9.3 The Standards Committee shall comprise of 9 members who shall consist of:

- (a) five elected Members of the Borough Council;
- (b) two co-opted Town or Parish Councillors with no voting rights;
- (c) two co-opted Independent Members with no voting rights;
- (d) the Chairman of the Standards Committee shall be appointed by the Committee at its first meeting in each municipal year;
- (e) the two co-opted Town or Parish Councillors cannot be Members of the Borough Council;
- (f) the Independent Person appointed in accordance with section 28 of the Localism Act 2011 shall be invited to attend meetings of the Standards Committee.

### **9.4 The Terms of Reference of the Standards Committee will be to:**

- (a) promote and maintain high standards of conduct by the Members and co-opted Members of the Council;
- (b) advise and assist Parish and Town Council(s) and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor to comply with the Code of Conduct;
- (c) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (d) receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council's assessment criteria;
- (e) receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;

- (f) advise, train or arrange to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (g) assist Councillors and co-opted Members to observe the Members' Code of Conduct;
- (h) conduct hearings and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (i) advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (j) maintain oversight of the Council's arrangements for dealing with complaints;
- (k) inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (l) report, with recommendations, to the Council and/or to the Cabinet at such times and in such manner as the Committee thinks fit.

#### **9.5.1 Appointment of Sub-Committee**

- (a) The Standards Committee has appointed a Sub-Committee consisting of 5 Members appointed from Members of the Standards Committee. The rules of political proportionality do not apply to the Sub-Committee.
- (b) When the Sub-Committee is meeting to deal with a complaint against a Town or Parish Councillor at least one of the 5 members of the Sub-Committee shall be a co-opted Town or Parish Councillor or substitute co-opted Town or Parish Councillor.
- (c) The Independent Person will attend meetings of the Sub-Committee when dealing with hearings into allegations of misconduct.

#### **9.5.2 The Terms of Reference of the Sub-Committee will be:**

- (a) To conduct a hearing into an allegation that a Member or Co-opted Member has breached their Council's Code of Conduct.
- (b) Following a hearing the Sub-Committee may make one of the following findings:
  - (1) That the member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the complaint, or
  - (2) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the complaint, or

- (3) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed.

## 9.6 Sanctions

The Council has delegated to the Standards Committee (or a Hearings Sub-Committee) such of its powers as can be delegated to take action in respect of a Member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include –

- (a) Publishing its findings in respect of the Member's conduct;
- (b) Reporting its findings to Council *[or to the Parish/Town Council]* for information but recommending that no sanction be applied;
- (c) Recommending to Council *[or to the Parish/Town Council]* that the Member be issued with a formal censure or be reprimanded;
- (d) Recommending to the Member'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;
- (e) Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Recommending to Council *[or to the Parish/Town Council]* that the Monitoring Officer be instructed to arrange training for the Member;
- (g) Recommending to Council *[or recommend to the Parish/Town Council]* that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council *[or by the Parish/Town Council]*;
- (h) Recommending to Council *[or recommend to the Parish/Town Council]* that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
- (i) Recommending to Council *[or recommend to the Parish/Town Council]* that the Member be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (j) Recommend to Council *[or recommend to the Parish/Town Council]* that it prevents the member from having access to a particular officer or officers.
- (k) The Sub-Committee may recommend any action or combination of actions available as above, or impose any informal resolution or combination of informal resolutions as are available to it.

## 9.7 Dispensations

- (a) To grant dispensations to a Member or Co-opted Member after consultation with the Independent Person pursuant to section 33(2)(b) and (c) of the Localism Act 2011.
- (b) To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to section 33(2)(a), (d) and (e) of the Localism Act 2011.

[note: any dispensation granted shall cease to have effect four years after the date on which it is granted]

## **9.8 Register of Members' Interests**

- (a) The Monitoring Officer shall establish and maintain a register of interests of the Members and Co-opted Members of the Borough Council and the Parish and Town Councils pursuant to section 29 of the Localism Act 2011 and ensure that the register is available for public inspection and published on the Borough Council's website.
- (b) The Monitoring Officer shall provide to each Member and Co-opted Member a registration of interests form which shall be completed by the Member or Co-opted Member and returned to the Monitoring Officer who shall then ensure that it is placed on the register. At the end of each municipal year the Monitoring Officer shall send to each Member and Co-opted Member a copy of their completed registration of interests form with a request that the Member and the Co-opted Member notifies the Monitoring Officer of any changes to their interests.
- (c) The Monitoring Officer shall provide to each Member and Co-opted Member a form to be used for the purposes of giving notification of any change to their interests.
- (d) The Monitoring Officer shall provide to each Member and Co-Opted Member a form to be used for the purposes of giving notification of the receipt of any gifts or hospitality over the value of £25.00.

## **ARTICLE 10 – JOINT ARRANGEMENTS**

### **10.1 Arrangements to promote well being**

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

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### **10.2 Joint arrangements**

- (a) The Council may enter into joint arrangements with one or more local authorities and/or their executives to exercise functions which are not the responsibility of the executives in all the local authorities concerned, or to advise the participating authorities on matters of joint interest. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

The Chairman shall preside if present. If the Chairman is not present, the Vice-Chairman shall preside. If neither are present, the Members present shall elect one of their number to preside for that meeting.

- (f) Meetings

The date and time of Joint Member panel meetings shall be set by the Panel as far ahead as possible and notified to Members. Once a date is set it will not normally change unless all Members are consulted.



Meetings shall take place four times a year

The Panel will determine whether or not their meetings are to be open to the public. Hearing loops are to be provided in meeting accommodation wherever possible.

(g) Conduct of Meetings

The order of business shall be as indicated in the summons to the meetings or otherwise as the Chairman shall prescribe.

The Chairman shall control the conduct of the meeting and the ruling of the Chairman on any point of order shall be final and shall not be questioned during the meeting.

All members of the Panel shall conduct themselves in accordance with the Model Code of Conduct in dealing with the business of the Joint Panel.

(h) Voting

All questions coming or arising before the Joint Member Panel shall be decided by a majority of the Members of the Panel present and voting.

The person presiding at the meeting shall not have a second or casting vote in the case of an equality of votes.

If any Member dissents on a decision, upon request, the name of that Member shall be recorded.

(i) Minutes

The names of the Members present shall be recorded

The minutes of meeting shall be entered in a book kept for the purpose and shall be signed at the next ordinary meeting by the Chairman. The book shall be open for inspection by anyone during office hours.

(j) Notice

At least seven clear days before a meeting a notice shall be published at County Hall and the Borough Council Offices, of the time, place and agenda of the meeting.

A summons shall be sent to every Member of the Joint Member Panel stating the time, place and business to be transacted and the minutes of the last meeting shall be sent to every member.

(k) Disclosure

A Member shall not disclose to any person except a Member of the Joint Member Panel, the Borough and the County, any Panel papers indicated to be confidential, unless the Panel expressly consents, the Panel has taken steps to make that business public, or the law requires.

(l) Responsibilities

A Member shall not disclose to any person except a Member of the Joint Member Panel, the Borough and the County, any Panel papers indicated to be confidential, unless the Panel expressly consents, the Panel has taken steps to make that business public, or the law requires.

(m) Activities of the Joint Member Panel

The Panel will consider the matters which are within its remit and the District Manager's delegated authority and which either:

- Relate to budget development, allocations and priorities in relation to any discretionary funding
- Relate to works programmes, progress monitoring reports, activities or performance indicators of the Unit

The Joint Member Panel may seek information from the District Manager to assist in its function of giving guidance to the District Manager. Such information will be provided unless its provision would have unreasonable resource implications

(n) The administrative support to the Joint Member Panel will be provided by the Borough Council Democratic Services Department

**10.3 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

**10.4 Delegation to and from other local authorities**

- (a) The Council may delegate functions which are not the responsibility of the Cabinet to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to a meeting of full Council.

### **10.5 Contracting out**

The Council (in respect of functions which are not the responsibility of the Cabinet) and the Cabinet (in respect of executive functions) 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 Deregulation 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 powers.

### **10.6 Dacorum Highways Joint Panel**

- (a) Under this Article II the Council has entered into a Dacorum Highways Joint Working Agreement with Hertfordshire County Council for the purposes of improving service delivery and accessibility to Highways Services across the Borough. This Agreement requires the Council and the County to set up a Joint Member Panel.

- (b) Membership

The Joint Member Panel will consist of 12 Members and will comprise 6 Members appointed by the Council and 6 County Members representing the County Divisions in the Borough of Dacorum.

- (c) The quorum of the Joint Member Panel is 6 Members, which must be comprised of both Councils.
- (d) When any matter is before the Joint Member Panel from the area of a Parish or Town Council, a nominated representative of that Council shall have the right to attend and participate in meetings, but not to vote.

- (e) Chairmanship

The Chairman of the Joint Member Panel will be elected annually by the Members of the Panel and the Chairmanship shall rotate between the Council and the County Council each year. A Vice-Chairman who shall not be a representative of the same Council as the Chairman, shall also be elected annually by the Members of the Panel.

## ARTICLE 11 – OFFICERS

### 11.1 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers) together with specific operational responsibility for those services identified in Part 3 'Responsibility for Functions'
Strategic Director (Neighbourhood Operations)	Overall strategic and operational management of those services falling within the Neighbourhood Operations Directorate.
Strategic Director (Corporate and Commercial Services)	Overall strategic and operational management of those services falling within the Corporate and Commercial Services Directorate.
Strategic Director (Place)	Overall strategic and operational management of those services falling within the Place Directorate.
Strategic Director (People and Transformation)	Overall strategic and operational management of those services falling within the People and Transformation Directorate.
Strategic Director (Housing and Property Services)	Overall strategic and operational management of those services falling within the People and Transformation Directorate.

- (c) **Head of Paid Service, Monitoring Officer and Section 151 Officer.**  
The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service (Section 4 Local Government and Housing Act 1989)
Deputy Chief Executive	Each Strategic Director on a rolling basis to be agreed by the Chief Executive
Assistant Director (Legal and Democratic Services)	Monitoring Officer (Section 5 Local Government and Housing Act 1989)
Chief Financial Officer	Section 151 Officer (Local Government Act 1972)

Such posts will have the functions described in Article 11.2-11.4 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## 11.2 Functions of the Head of Paid Service

- (a) **Discharge of functions 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.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

## 11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet (in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice and will be responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- (i) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration,

financial impropriety, probity and budget and policy framework issues to all Councillors.

- (j) **Restrictions on posts.** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### **11.4 Functions of the Section 151 Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet (in relation to an executive function) and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council and for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- (c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Section 151 Officer will provide appropriate advice on all financial matters and on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Section 151 Officer will provide financial information to the media, members of the public and the community.

#### **11.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **11.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### **11.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **ARTICLE 12 – DECISION MAKING**

### **12.1 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.

- (i) The principal aims of the Council's executive arrangements set out in this Constitution are to make decision making more efficient, transparent and accountable so that the Council can be open and responsive to the needs and aspirations of local communities.
- (ii) Members of the Cabinet will be collectively responsible for decisions made by the Cabinet. Cabinet Members will be individually responsible for their own decisions.
- (iii) Key decisions which have significant effects within the community or on interests outside the Borough will need to be identified and properly consulted on. Such key decisions may be delegated to various bodies within the Council, including officers but, no matter who is taking the decision, the same principles should apply.

### **12.2 Principles of decision making – Introduction**

All decisions of the Council will be made in accordance with the following principles:

#### **PRINCIPLES OF DECISION MAKING**

- (a) the decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement;
- (b) the decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded;
- (c) in the case of 'quasi-judicial' decisions (e.g. a decision as to whether or not to uphold an appeal against a homelessness determination) a fair hearing conducted in accordance with the rules of Natural Justice should be afforded the person who is the subject of the decision;



- (d) the decision must be proportionate (i.e. the action should be proportionate to the desired outcome);
- (e) decisions should be taken on the basis of due consultation and professional advice from officers;
- (f) human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights;
- (g) decisions must be taken in compliance with Council's Schemes of Delegation, financial Regulations and Instructions Relating to Contracts;
- (h) when making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed;
- (i) careful consideration should always be given as to whether there is a personal interest that should be declared;
- (j) in the case of executive decisions taken by the Cabinet, or an individual Member of the Cabinet, or an Officer (where the decision is a key decision) a proper record of the decision must be made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.

### **12.3 Types of decision**

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

- (b) Key decisions

- (i) A 'key decision' means an executive decision which is likely –
  - (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on people living or working in an area comprising two or more wards in the Borough.

- (ii) Wherever practicable, a decision which has a significant impact on people living in a single ward will be treated by the Council as a key decision.
- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of the Constitution.

#### **12.4 Decision making by full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.5 Decision making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.6 Decision making by overview and scrutiny committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.7 Decision making by other committees and sub-committees established by the Council**

Subject to article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **12.8 Decision making by Council bodies acting in a quasi-judicial capacity**

The Council, a Councillor or an officer acting 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. This requirement would apply also to the Standards Committee.

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **13.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 8 of this Constitution.

### **13.2 Contracts**

Every contract made by the Council will comply with the Procurement Standing Orders set out in Part 8 of this Constitution.

### **13.3 Legal proceedings**

The Assistant Director (Legal and Democratic Services) is authorised to institute, defend, compromise 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 Assistant Director (Legal and Democratic Services) considers that such action is necessary to protect the Council's interests.

### **13.4 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 Assistant Director (Legal and Democratic Services) or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.5 Common Seal of the Council**

#### **1. Custody of Seal**

The Common Seal of the Council shall be kept in a safe place in the custody of the Assistant Director (Legal and Democratic Services).

#### **2. Sealing**

2.1 The Common Seal of the Council shall not be applied to any document unless the sealing has been authorised by a resolution or decision of the Council, or a Committee or Sub-Committee of the Council, or the Cabinet, or a Committee of the Cabinet, or an individual Cabinet member, or an officer, made or acting under delegated powers and proof of such resolution or decision has been produced with the document when submitted for sealing.

2.2 A resolution or decision as referred to in 2.1 above authorising the acceptance of a tender, the purchase, sale, letting or taking on lease of any property, the issue of any stock, the presentation of any petition, memorial or address, the making

of any rate or contract or the doing of any other thing, shall be sufficient authority for sealing any document necessary to give effect to the resolution or decision.

2.3 The Common Seal shall be attested by two different persons present at the sealing of whom

2.3.1 One shall be the Assistant Director (Legal and Democratic Services), in his/her absence, the Head of Legal and Democratic Services or any postholder with designated Deputy Monitoring Officer duties, or the Chief Executive or one of the Strategic Directors.

2.3.2 The other shall be any of the above-named persons or a legally qualified person in the employment of the Council and duly authorised in that behalf by the Assistant Director (Legal and Democratic Services).

2.3.3 In cases of civil emergency the Assistant Director (Legal and Democratic Services), any postholder with designated Deputy Monitoring Officer duties, the Head of Legal and Democratic Services, or the Chief Executive or one of the Strategic Directors can seal documents without a second countersignatory. Cabinet and Council shall be updated on the use of this power at the next available meeting.

2.4 An entry of sealing of a document shall be made and consecutively numbered in a book kept for the purpose and signed by the persons who have attested the seal.

## **ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION**

### **14.1 Duty to monitor and review the constitution**

The Cabinet in conjunction with the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **14.2 Protocol for monitoring and review of constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### **14.3 Changes to the Constitution**

#### **General**

- 14.3.1 This Article sets out the requirements for changes to this Constitution. Proposals for change may be prompted not only by formal internal reviews, but also by the Monitoring Officer, the Cabinet, other Members and by public opinion. Proposals to change from one form of executive to another require proper consultation with the public, and change from a Leader and Cabinet form of executive to an elected mayor form, requires a referendum.
- 14.3.2 However, other changes may require limited or no consultation. The amount of consultation required should be proportionate to the scale, scope and extent of the change proposed.
- 14.3.3 Proposals for constitutional change should not be used to overcome disputes between the Cabinet and other Councillors, or even within the Cabinet itself.

## **Approval**

- 14.3.4 Except for changes required to the Constitution following implementation of new or updated legislation changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Cabinet and/or the Monitoring Officer.
- 14.3.5 A vote at Council to change the Constitution should be passed by a simple majority of those present and voting.
- 14.3.6 If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of executive the Council must take reasonable steps to consult with local electors and other interested persons in the Borough. If the proposed new form of executive involves an elected mayor the Council must also hold a binding referendum.
- 14.3.7 The Monitoring Officer may update the Constitution to reflect new or updated legislation or updates required to reflect staffing changes or role titles. Any changes to the Constitution should be reported to Cabinet and full Council at least annually

# **ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

## **15.1 Suspension of the Constitution**

- 15.1.1 The Articles of this Constitution may not be suspended.
- 15.1.2 Any Rules of Procedure, except those required by law, may be suspended at a meeting of full Council, but only if
  - (a) notice of motion to suspend has been given or
  - (b) there are present at least fifteen Members of the Council.
- 15.1.3 The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 15.1.4 No Committee or Sub-Committee or the Cabinet shall have power to suspend any Rules of Procedure, but may resolve to recommend the Council to suspend in special circumstances which shall be stated in the resolution.

## **15.2 Interpretation**

The ruling of the Mayor (or in his/her absence the Deputy Mayor) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## **15.3 Publication**

- (a) The Assistant Director (Legal and Democratic Services) will give a printed copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Assistant Director (Legal and Democratic Services) will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Director (Legal and Democratic Services) will ensure that the summary of the Constitution is made widely available within the Borough and is updated as necessary.

Author & Responsible Officer	Mark Brookes, Assistant Director, Legal and Democratic Services
Date of publication	July 2023
Date of last version	March 2024
Version no	1

Table of Amendments

Date of Change	Paragraph Amended	Explanation of amendments	Authority
18/03/24	Various to include the Strategic Director of Housing and Property Services role		Council July 2024



## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

September 2024

## **PART 3      RESPONSIBILITY FOR FUNCTIONS**

### **Introduction – Local Government Acts 1972 and 2000**

1. Responsibility for discharging the functions of the Council rests with the Leader and Cabinet except for those functions, which are specified in The Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) as not being the responsibility of the Council's executive. These functions specified in the Regulations, for example, development control and licensing, remain the responsibility of the Council. The Regulations also specify a number of functions which may be (but need not be) the responsibility of the Cabinet (the determination of appeals for example). Responsibility for those functions is down to local choice.

Functions, which are the responsibility of the Leader and Cabinet, can be discharged by the Leader or the Cabinet collectively, or by a committee of the Cabinet, or by any individual Cabinet Member (Portfolio Holder) or by any individual officer of the Council.

Those functions, which remain the responsibility of the Council, can be discharged through committees or sub-committees or by any individual officer of the Council.

The Council is required to set out in its Constitution the following information concerning the allocation (or delegation) of responsibility for functions:

- (a) who is responsible for "local choice functions",
- (b) a description of the functions of the Cabinet which, for time being, are exercisable by individual Cabinet Portfolio Holders stating the name of the Cabinet Member by whom it is exercisable,
- (c) a description of those powers of the Cabinet which for the time being are exercisable by an officer of the Council stating the title of the officer by whom the power is exercisable,
- (d) a description of the terms of reference of the committees or sub-committees appointed by the Council for the purpose of discharging those functions for which it still has responsibility,
- (e) a description of those powers which have been delegated by the Council, or by a committee or sub-committee, to be exercisable by an officer of the Council stating the title of the officer

### **Interpretation**

2. In this Part all references to the title of an officer by whom a specified power is exercisable shall include reference to any officer who has been appointed to act in that capacity on an interim basis during the vacancy in that post. 'Chief Officer' means the holder for the time being of any of the following posts: Chief Executive; Strategic Director (Corporate and

Commercial Services), Strategic Director (Place), Strategic Director (People and Transformation), Strategic Director (Housing and Property Services) and Strategic Director (Neighbourhood Services)

- References to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;

### **Delegation of Powers**

- Every officer designated in this Part is authorised to act on behalf of and in the name of the Council in those matters shown as delegated to him or her.
- The powers delegated under this Part shall be exercised in accordance with any requirements in the Council's Constitution and the necessary financial provision having been made in the approved budget.
- Any power delegated by this Part to the Chief Executive may, during the absence of the Chief Executive, or during his or her inability to act for any other reason, or during the vacancy in the post of Chief Executive, be exercised by any other Chief Officer.
- An officer empowered under this Part to exercise delegated power in respect of any matter may authorise the exercise of that power by such other officers as he or she may deem appropriate for the proper performance of the work. Any authorisation given under this provision must be recorded in writing and a copy supplied to the Assistant Director (Legal and Democratic Services). Any exercise of a delegated power in such manner shall be expressed to be on behalf of the officer specified in this Part, who shall remain responsible for the act of his or her appointee.

### **1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

<u>Function</u>	<u>Who is responsible</u>
1. The determination of an appeal against any decision made by or on behalf of the Council	The Appeals Committee
2. The conducting of Best Value reviews	The Cabinet will oversee the conduct of Best Value reviews but may commission a Task and Finish Group to run the reviews who will report their recommendations to the relevant Overview and Scrutiny Committees prior to it being reported to Cabinet

- |     |   |             |
|-----|---|-------------|
| 3.  | Any function relating to contaminated land  | The Cabinet |
| 4.  | The discharge of any function relating to the control of pollution or the management of air quality                                     | The Cabinet |
| 5.  | The service of an abatement notice in respect of a statutory nuisance   | The Cabinet |
| 6.  | The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area             | The Cabinet |
| 7.  | The Inspection of the Council's area to detect any statutory nuisance   | The Cabinet |
| 8.  | The investigation of any complaint as to the existence of a statutory nuisance  | The Cabinet |
| 9.  | The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land                        | The Council |
| 10. | The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 | The Cabinet |
| 11. | Making agreements for the execution of highway works  | The Cabinet |
| 12. | The appointment of any individual:  | The Council |
|     | (a) To any office other than an office in which he is employed by the Council;  |             |
|     | (b) To any body other than:   |             |
|     | (i) The authority;  |             |

(ii) A joint committee of two or more authorities; or

(c) To any committee or sub-committee of such a body

and the revocation of any such appointment.

(d) The appointment of an officer to an external company

Chief Executive in consultation with the Leader of the Council

13. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

The Cabinet

## **2. RESPONSIBILITY FOR COUNCIL FUNCTIONS**

### **2.1 The Regulatory Committees of the Council**

2.1.1 The “Regulatory Committees of the Council” are politically proportionate Committees appointed for the purpose of discharging those functions, which are not the responsibility of the Cabinet. They comprise of:

The Development Management Committee  
The Licensing and Health & Safety Enforcement Committee  
The Licensing and Health & Safety Enforcement Sub Committee  
The Licensing of Alcohol & Gambling Sub Committee  
The Appeals and Reviews Committee  
The Audit Committee

2.1.2 The Appeals Committee has a variable membership which will be chosen from a pool of members appointed by the Council and who have received relevant training.

2.1.3 A Member of the Cabinet is permitted to be a member of any Regulatory Committee but shall not attend any committee meeting which is hearing an appeal or review against a decision which is made by a service which falls within their Portfolio.

2.1.4 The Chairmen, Vice Chairmen and Members of the Regulatory Committees are appointed by full Council.

### **2.2 Development Management Committee**

2.2.1 Shall comprise of 14 members of the Council.

2.2.2 Shall meet in accordance with the cycle of meetings approved annually by the Council.

2.2.3 Terms of Reference

The functions of the Development Management Committee shall be to exercise all powers of the Council relating to:

- (i) Town and country planning and development control (except matters relating to the review, alteration or approval of the Development Plan)
- (ii) The protection and preservation of trees
- (iii) The protection and preservation of hedgerows

- (iv) The various powers relating to public rights of way contained in the Highways Act 1980, which have been delegated to the Council by Hertfordshire County Council as the Highway Authority, under an Agency Agreement. These include the powers to protect and assert public rights of way, including powers to create, divert or stop up footpaths, bridleways and byways
- (v) Complaints about high hedges
- (vi) The authorisation of all allied enforcement action.

**2.3 Delegation to Officers from Development Management Committee**

POWER OR FUNCTION	TO WHOM DELEGATED
DETERMINATION OF APPLICATIONS	
2.3.1 The making of decisions or representations on all planning and other applications falling to be considered by the Borough Council as local planning authority.	Assistant Director (Planning), Head of Development Management, Development Management Team Managers and Assistant Team Managers or the Specialist Services Team Managers.

The above authority to include:

- the disposal of applications in accordance with Article 40 (13) of the Town and Country Planning (Development Management Procedure) (England Order ) Order 2015
- the service of Building Preservation Notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- the authority to make applications for spot listing to the Department of Culture, Media and Sport or any successor Department.

- the making, varying or revoking of Tree Preservation Orders (including confirmation where there are no objections)
- the making of decisions on all planning applications falling to be considered by the Borough Council as local planning authority where there is a deadline under statute or regulation after which planning permission, prior approval or consent is deemed to be granted
- authority to enter into agreements under S.106 Town and Country Planning Act 1990 required in connection with Development Consent Orders or any other application or appeal determined by the Secretary of State or any S.106 agreement required to secure mitigation measures connected to the Conservation of Habitats and Species Regulations 2017 (as amended) where the development has previously been granted planning permission.

2.3.2 The following matters are excluded from delegation under paragraph 2.3.1:

- (1) Decisions on proposals other than householder developments\*, which would have the effect, either cumulatively or otherwise of granting permission, consent or other approval for matters previously refused by the Development Management Committee
- (2) Decisions on proposals which any Borough Councillor representing the ward within which the application site is situated, or the Chairman, Vice-Chairman of the Development Management Committee or Portfolio Holder for Planning and Regeneration has, within a time period of no more than 28 days from public consultation commencement or date of the advertisement of the application,



requested should be reported to the Development Management Committee and where that request is made in writing and supported with material planning reasons save that:

- a) in the event of a public re-consultation following amendment or amendments to an application any Borough Councillor representing the ward within which the application site is situated, or the Chairman, Vice-Chairman of the Development Management Committee or Portfolio Holder for Planning and Regeneration may, within a time period of no more than 14 days from commencement of the public re-consultation, request the application should be reported to the Development Management Committee but only where that request is made in writing and relates purely to the amended element or elements and is supported with material planning reasons.
- b) Excluded from the call-in power referred to in 2.3.2(2) above are all planning applications falling to be considered by the Borough Council as local planning authority where there is a deadline under statute or regulation after which planning permission, prior approval or consent is deemed to be granted

#### POWER OR FUNCTION DETERMINATION OF APPLICATIONS

- (3) Decisions (other than those relating to applications for lawful development certificates, applications for approval required by condition or under the provisions of a Tree Preservation Order, all planning applications falling to be considered by the Borough Council as local planning authority where there is a deadline under statute or regulation after which planning permission, prior approval or consent is deemed to be granted notifications for the removal of

hedgerows and works to trees in Conservation Areas) on proposals where a Town or Parish Council expresses a contrary view (either to object or to support) to that of the Assistant Director (Planning) and Head of Development Management where that contrary view is submitted in writing and supported with material planning reasons.

- (4) Decisions on large scale major development\* proposals to be determined by the Council as local planning authority which are linked either to an existing agreement pursuant to s.52 of the Town and Country Planning Act 1971 or s.106 of the Town and Country Planning Act 1990 or to an existing or proposed planning obligation under s.106 of the Town and Country Planning Act 1990 (as substituted by s.12 of the Planning and Compensation Act 1991). Applications recommended for refusal do not fall within into this category.
- (4(a)) Decisions on proposals seeking variations to existing legal agreements made either within 5 years or under Section 106A of the Town and Country Planning Act 1990 unless (in the opinion of the Assistant Director (Planning) or the Head of Development Management they are considered to be minor variations.
- (5) Decisions on major proposals\* or proposals where there is any objection submitted in writing and supported by material planning reasons for the construction of new buildings or the change of use of existing buildings either submitted by or on behalf of the Borough Council or affecting land or buildings in which the Borough Council has an interest. Decisions on minor material and non –material amendments to approved proposals are not included within this exclusion.

POWER OR FUNCTION  
DETERMINATION OF APPLICATIONS

- (6) Decisions on proposals (other than those relating to applications for lawful development certificates, applications for approval required by condition or under the provisions of a Tree Preservation Order, applications under Part 6 of Schedule 2 to the Town and Country Planning General Permitted Development Order 1995 or notifications for the removal of hedgerows and works to trees in Conservation Areas) submitted by or on behalf of either Borough Councillors or members of staff.
- (7) Decisions on proposals which, in the opinion of the Assistant Director (Planning) or the Head of Development Management are of significant public interest, would have a significant impact on the environment, or should otherwise be reported to the Development Management Committee

ENFORCEMENT OF PLANNING CONTROL

- 2.3.3 The making of decisions on all enforcement matters falling to be considered by the Borough Council as local planning authority
- Assistant Director (Planning), Head of Development Management, Development Management Team Managers and Assistant Team Managers, the Specialist Services Team Managers or the Assistant Team Manager (Planning Enforcement)

The above authority to include but not be limited to:

- Service of an enforcement notice pursuant to S.172 Town and Country Planning Act 1990
- Service of an enforcement notice relating

to a listed building pursuant to s S.38 Planning (Listed Buildings and Conservation Areas) Act 1990

- Service of a stop notice pursuant to s.183 Town and Country Planning Act 1990
- Service of temporary stop notice pursuant to S.171E Town and Country Planning Act 1990
- Injunctions to prevent unauthorised development
- Prosecutions under Town and Country Planning Act 1990 and Planning (Listed Buildings and Conservation Areas) Act 1990

All enforcement action under 2.3.3 to be reported on a quarterly basis to Development Management Committee

The following matters are excluded from delegation under paragraph 2.3.3:

- (1) Decisions on whether to vary or withdraw proceedings previously authorised by the Development Management Committee.

#### DEALING WITH APPEALS

2.3.5 The making of decisions on all matters (including settling the case to be made) in relation to the conduct of appeals to which the Borough Council as local planning authority is a party.

Assistant Director (Planning), Head of Development Management, Development Management Team Managers and Assistant Team Managers or the Specialist Services Team Managers

#### POWER OR FUNCTION

TO WHOM DELEGATED

#### DETERMINATION OF APPLICATIONS

#### PROCEDURAL MATTERS

2.3.6 The making of decisions on all

Assistant Director

procedural and administrative matters (including the adoption of a screening opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999) falling to be considered by the Borough Council as local planning authority.

(Planning), Head of Development Management, Development Management Team Managers and Assistant Team Managers or the Specialist Services Team Managers

2.3.7 The following matters are excluded from delegation under paragraph 2.3.6:

- (1) Confirmation or modification of a Tree Preservation Order where any objections and representations have been duly made and not withdrawn.
- (2) The making and confirmation of a Direction under Article 4 of the Town and Country Planning General Permitted Development (England) Order 2015 in relation to parts 6, 7, 11, 17, 19, 20, of Schedule 2 (other than in cases where the Assistant Director (Planning) or the Head of Development Management in consultation with the Assistant Director (Legal and Democratic Services), considers urgent action is necessary).
- (3) Decisions to defer from consideration applications which have been included in the agenda for a meeting of the Development Management Committee.
- (4) Any matter relating to the preparation of the Local Development Framework, and the designation or alteration of conservation areas.

\* Definitions

Householder: Householder developments are defined as those within the curtilage of a house which require an application for planning permission and are not a change of use. Included in householder developments are extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular access including footway crossovers, porches and satellite dishes. Excluded from householder development are any work relating to a flat(s), applications to change the number of dwellings (flat conversions, building a separate house in the garden), changes of use to part of all of the property to non-residential (including business) uses, anything outside the garden of the property (including stables if in a separate paddock)

Large Scale Major Development: For dwellings, a large-scale major development is one where the number of residential units to be constructed is 200 or more. Where the number of residential units to be constructed is not given in the application a site area of 4 hectares or more should be used as the definition of a large-scale major development. For all other uses a large-scale major development is one where the floorspace to be built is 10,000 square metres or more, or where the site area is 2 hectares or more

Major Development: For dwellings, a major development is one where the number of residential units to be constructed is 10 or more. Where the number of residential units to be constructed is not given in the application a site having an area of 0.5 hectares or more should be used as the definition of a major development. For all other uses a major development is one where the floorspace to be built is 1000 square metres or more, or a change of use of floorspace of 1000 square metres or more.

POWER OR FUNCTION

TO WHOM  
DELEGATED

DETERMINATION OF APPLICATIONS

HIGHWAYS

- |   |   |
|---|---|
| 2.3.8 To confirm unopposed orders for the stopping-up, diversion, reclassification and addition to the Definitive Map of footpaths, bridleways and byways.  | Assistant Director<br>(Legal and Democratic Services))                                |
| 2.3.9. The discharge of the Council's powers relating to highways and public rights of way contained in the Highways Act 1980, the Acquisition of Land Act 1981, the Wildlife and Countryside Acts 1981 and The Countryside and Rights of Way Act 2000, the Cycle Tracks Act 1984, the Housing Act 1981 and the Town and Country Planning Act 1990 unless otherwise specified elsewhere in this Part. | Strategic Director<br>(Neighbourhood Operations) and Head of Neighbourhood Management |

HIGH HEDGES

Part 8 Anti-social Behaviour Act 2003

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|---|----------------------------------|
| 2.3.10 The making of decisions on all matters falling to be considered by | Assistant Director<br>(Legal and |
|---|----------------------------------|

	the Council under s.68 (procedure for dealing with complaints), s.69 (remedial notices), s.70 (withdrawal or relaxation of requirements of remedial notices)	Democratic Services)
2.3.11	The power to authorise persons to enter land for the purposes of complaints to and appeals under s.74.	Assistant Director (Legal and Democratic Services)
2.2.12	The power to authorise proceedings under s.75 (offences).	Assistant Director (Legal and Democratic Services)
2.3.13	The power to authorise persons to enter land for the purposes of taking required action under s.77.	Assistant Director (Legal and Democratic Services)
2.3.14	The power to authorise the recovery of expenses under s.77.	Assistant Director (Legal and Democratic Services)

## **2.4 The Licensing and Health and Safety Enforcement Committee:**

2.4.1 Shall comprise of 13 members of the Council.

2.4.2 Shall meet on an ad hoc basis when summoned by the Assistant Director (Legal and Democratic services ) to deal with matters specified on the Agenda.

2.4.3 Terms of Reference

The functions of the Licensing and Health and Safety Enforcement Committee shall be:

- (i) to fulfil the role of the licensing committee of the Council in its capacity as a licensing authority under section 6 of the Licensing Act 2003 and section 154 of the Gambling Act 2005, and
- (ii) to exercise all the powers of the Council relating to the grant, renewal, refusal, variation, cancellation, or imposition of conditions upon any licence or authorisation which the Council has a power or duty to issue, including the following:
  - Hackney carriages and private hire vehicles, drivers and operators

- Sale and supply of alcohol, regulated entertainment and late night refreshment (Licensing Act 2003)
- Non remote gambling by way of betting, gaming or lotteries (Gambling Act 2005)
- Sex shops, sex cinemas and sexual entertainment venues
- Animal welfare related establishments
- Food safety
- Caravan sites, camping sites and moveable dwellings
- Street trading
- Charitable collections
- Acupuncture, tattooing, piercing and electrolysis
- The registration of persons or premises in pursuance of other public health, safety or related functions
- Any other licensing matter as may from time to time require determination by the Council.

- (iii) to exercise all the powers of the Council relating to the setting of fees and charges, policies (where not otherwise prohibited) and guidance for the above mentioned authorisations.
- (iv) to exercise all the functions relating to health and safety under any “relevant statutory provision” within the meaning of Part I of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.

**2.5 Scheme of Delegation to Officers (From the Licensing and Health and Safety Enforcement Committee)**

POWER OR FUNCTION	TO WHOM DELEGATED
Food Safety	
2.5.1 To register and issue licences in respect of premises used or to be used for the purposes of a food business (S.19 Food Safety Act 1990 and the appropriate Regulations)	Strategic Director (Neighbourhood Operations) and Head of Regulatory Services
2.5.2 To grant licences authorising the use of	Strategic Director (Neighbourhood



special milk designations (S.18(2) Food Safety Act 1990 and the appropriate Regulations) Operations) and Head of Regulatory Services

2.5.3 To register hawkers of food and their premises Assistant Director (Legal and Democratic Services), Strategic Director (Neighbourhood Operations) and Head of Regulatory Services

#### Hackney Carriage and Private Hire Vehicles

2.5.4 To grant and renew vehicle and driver licences in respect of hackney carriages and private hire vehicles on the Council's relevant Standard Conditions in accordance with the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services

2.5.5 Power to grant variations or exemptions to the Council's Standard Conditions subject to a right of appeal against a refusal to grant an exemption or variation to the Committee. Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services )

2.5.6 To grant or renew private hire operators' licences Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services

2.5.7 To inspect and test a licensed vehicle under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, and to suspend a vehicle's license under that section where the officer was not satisfied as to the fitness of the vehicle or the accuracy of the taximeter on inspection or test thereof, until such time as any defects have been rectified to the satisfaction of the officer. Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services)

2.5.8a To suspend hackney carriage and private hire drivers' licences in accordance with the provisions of S.50 of the Town Police Assistant Director (Legal and Democratic Services), Head of

	Clauses Act 1847 and S.61 of the Local Government (Miscellaneous Provisions) Act 1976	Legal and Democratic Services
2.5.8b	To suspend a vehicle's licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976, on the grounds that the vehicle is unfit for use as a hackney carriage or private hire vehicle	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services
2.5.8c	To suspend or revoke a vehicle's licence, a driver's licence, or an operator's licence with immediate effect under section 60, 61 or 62 of the Local Government (Miscellaneous Provisions) Act 1976 respectively, on any of the grounds thereunder, following consultation with the chair or vice-chair of the Licensing, Health, Safety and Enforcement Committee	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services
2.5.8d	To inspect and test a licensed vehicle under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, and to suspend a vehicle's licence under that section where the officer was not satisfied as to the fitness of the vehicle or the accuracy of the taximeter on inspection or test thereof, until such time as any defects have been rectified to the satisfaction of the officer	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services
2.5.9	To approve the display of advertisements on the outside or inside of a hackney carriage	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services
Charitable/Street Collections		
2.5.10	To issue licences for house to house collections in the Borough	Assistant Director (Legal and Democratic Services) Head of Legal and Democratic Services
2.5.11	To deal with applications for the use of public precincts for meetings, street collections or similar purposes.	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services

2.5.13	To grant permits for street collections and to exercise the Council's other powers under relevant regulations.	Assistant Director (Legal and Democratic Services Head of Legal and Democratic Services
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**Street Trading Consents**

2.5.13	(1) To grant consents and impose conditions upon consents to trade in streets in the Borough (other than prohibited streets) under the Local Government (Miscellaneous provisions) Act 1982	Assistant Director (Legal and Democratic Services Head of Legal and Democratic Services
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(2)	To authorise designated employees of the Council to be proper officers for the purpose of enforcing the street trading provisions	Assistant Director (Legal and Democratic Services Head of Legal and Democratic Services
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(3)	To institute proceedings in respect of contravention of street trading consents and street trading in prohibited streets under the provisions of the Local Government (Miscellaneous Provisions) Act 1982	Assistant Director (Legal and Democratic Services Head of Legal and Democratic Services
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**Animals**

2.5.14	To act as the Council's Licensing Officer for the grant (including determining the length and risk rating of licences where relevant), variation, refusal, and revocation of licences under the following enactments (and any subordinate legislation made or deemed to be made thereunder):	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services )
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**Relating to Animals:**  
The Animal Welfare Act 2006

Dangerous Wild Animals Act 1976

The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018  
Zoo Licensing Act 1981

To institute proceedings in respect of any offence committed under the following enactments (and any subordinate legislation made or deemed to be made thereunder)

Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services

Dangerous Wild Animals Act 1976

Zoo Licensing Act 1981

Animal Welfare Act 2006

**Relating to theatres, entertainments, etc:**

Hypnotism Act 1952

2.5.15 To act as the Council's Licensing Officer and to grant, vary or revoke licences (including the giving of consents to requests for variations to licence conditions) under the following enactments (and any subordinate legislation made or deemed to be made thereunder) where:

Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services)

- (1) there is no objection to the grant of a licence AND
- (2) the character or antecedents of the applicant are either not an issue or are not in doubt AND
- (3) all formalities have been duly complied with AND
- (4) the Licensing Officer has no other reason to refer the matter to the Council's Licensing and Health and Safety Enforcement Committee for determination

2.5.16 **Local Government (Miscellaneous**

Assistant Director

**Provisions) Act 1982: Part II and Schedule 3 (sex establishments)**

(Legal and Democratic Services)

**Relating to Caravan and Camping Sites**

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|----------------|--|---|
| 2.5.17         | To make all decisions/determinations serve notices and authorise the taking of any necessary action in pursuance of the Council's licensing and enforcement responsibilities (including, but not limited to, the service of notices and orders, imposing civil penalties, arranging for the carrying out of remedial works, the recovery of expenses and the keeping of registers of licences and orders) and all other duties or powers which the Council may have in accordance with the following statutory provisions and any orders or regulations made thereunder: | Assistant Director (Legal and Democratic Services), Strategic Director (Neighbourhood Operations) and Head of Regulatory Services |
| 2.5.18         | Caravan Sites Control of Development Act 1960  | Assistant Director (Legal and Democratic Services),   |
| 2.5.19         | Mobile Homes Act 2013  | Assistant Director (Legal and Democratic Services) ),   |
| 2.5.20         | Under or in relation to any of the enactments specified in paragraphs 2.5.15 and 2.5.20 above and the subordinate legislation referred to therein, and in accordance with S.223 Local Government Act 1972 to act as authorised Officer of the Council, to inspect premises, to authorise the institution of proceedings in a Magistrates' Court and to appear in any proceedings instituted by the Council   | Assistant Director (Legal and Democratic Services )   |
| Sunday Trading |  |   |
| 2.5.21         | To appoint by an instrument in writing Inspectors for the purposes of the Sunday Trading Act 1994  | Assistant Director (Legal and Democratic Services )   |

2.5.22 To authorise the institution of legal proceedings for offences under the Sunday Trading Act 1994 Assistant Director (Legal and Democratic Services )

Health and Safety at Work

2.5.23 To exercise the powers of the Council under S.19 Health and Safety at Work, etc Act 1974: Strategic Director (Neighbourhood Operations) and Head of Regulatory Services

(1) To appoint by an instrument in writing signed by him or her persons as Inspectors for the purposes of the 1974 Act, being persons having suitable qualifications;

(2) To specify in the instrument of appointment which of the following powers are to be exercisable by each of the persons so appointed:

(a) the powers of an Inspector specified in:

(i) SS.20, 21, 22 and 25 of the 1974 Act;

(ii) the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provision so specified, as in force from time to time;

(b) to authorise the institution of proceedings in England and Wales pursuant to S.38 of the 1974 Act.

(3) to terminate any appointment so made whether by him or her or another

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|--------|--|---|
| 2.5.24 | To authorise another person to accompany an Inspector of Health and Safety on any inspection, examination or investigation under the Health and Safety at Work, etc Act 1974   | Strategic Director (Neighbourhood Operations) and Head of Regulatory Services |
| 2.5.25 | To provide general legal representation on behalf of Inspectors appointed by the Council in relation to matters covered by the Health and Safety at Work, etc Act 1974   | Assistant Director (Legal and Democratic Services)                            |
| 2.5.26 | To transfer or assign responsibility for enforcement of the Health and Safety at Work etc Act 1974 to or from the Health and Safety Executive in cases where the responsibility is uncertain or where one authority is more appropriate for enforcement. | Strategic Director (Neighbourhood Operations) and Head of Regulatory Services |

Tattooing/Acupuncture/Piercing/Electrolysis

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| 2.5.27 | To register persons carrying on the practice of acupuncture, or the business of tattooing, piercing, or electrolysis, and their premises (SS.14 & 15 Local Government (Miscellaneous Provisions) Act 1982) | Assistant Director (Legal and Democratic Services)  |
| 2.5.28 | To authorise the institution of proceedings for offences under s.16 of the Local Government (Miscellaneous Provisions) Act 1982  | Assistant Director (Legal and Democratic Services)  |
| 2.5.29 | To authorise officers to inspect premises under s.17 Local Government (Misc Provisions) Act 1982   | Assistant Director (Legal and Democratic Services),                                       |
| 2.5.30 | To authorise the administration of formal cautions in appropriate circumstances  | Assistant Director (Legal and Democratic Services, Head of Legal and Democratic Services) |

Highways (Provision of services, amenities, etc)

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|--------|---|--------------------------------|
| 2.5.31 | To grant permission for provision, etc of services, amenities, recreation and | Assistant Director (Planning)) |
|--------|---|--------------------------------|

refreshment facilities on a highway, and related powers. (Sections 115E, 115F and 115K of the Highways Act 1980)

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|--------|---|-------------------------|----------|
| 2.5.32 | To publish notice in respect of proposal to grant permission under Section 115E of the Highways Act 1980 (Section 115G Highways Act 1980) | Assistant<br>(Planning) | Director |
|--------|---|-------------------------|----------|

**Licensing Act 2003**

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|--------|---|---|---|
| 2.5.33 | To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 17, 29, 34, 41A, 51, 53A, 71, 84, 86A, 87 or 167 of the Licensing Act 2003. | Assistant<br>(Legal and Democratic Services), | Director<br>Head of Legal and Democratic Services |
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|--------|---|---|---|
| 2.5.34 | To apply for the review of a premises licence under section 51 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing. | Assistant<br>(Legal and Democratic Services), | Director<br>Head of Legal and Democratic Services ) |
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|--------|---|---|---|
| 2.5.35 | To apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing | Assistant<br>(Legal and Democratic Services), | Director<br>Head of Legal and Democratic Services ) |
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**Gambling Act 2005**

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|--------|---|---|---|
| 2.5.36 | To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 159, 187, 188, 195, 197, 200 or 204 of the Gambling Act 2005. | Assistant<br>(Legal and Democratic Services), | Director<br>Head of Legal and Democratic Services |
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|--------|---|---|---|
| 2.5.37 | To apply for the review of a premises licence under section 197 of the Gambling Act 2005 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing. | Assistant<br>(Legal and Democratic Services), | Director<br>Head of Legal and Democratic Services |
|--------|---|---|---|



- 2.5.38 To initiate reviews of premises licences of a particular class under section 201 of the Gambling Act 2005 on behalf of the licensing authority, and make appropriate supporting representations at the resulting committee hearing(s).
- Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services

## **2.6 Delegation to the Licensing and Health and Safety Enforcement Sub-Committee:**

2.6.1. The Licensing and Health and Safety Enforcement Committee has appointed a Sub-Committee comprised of 7 members which shall meet in accordance with the cycle of meetings approved annually by the Council or when summoned by the Assistant Director (Legal and Democratic Services) to deal with matters specified on the agenda.

### **2.6.2 Terms of reference**

To carry out any of the functions relating to the determination of applications, the conditions applied to authorisations, or exemptions from the Council's standard policies, which may otherwise be carried out by the Licensing and Health and Safety Enforcement Committee, except for those functions otherwise delegated to the Licensing of Alcohol and Gambling Sub Committee, contained within the Licensing Act 2003 and the Gambling Act 2005.

## **2.7 Delegation to the Licensing of Alcohol and Gambling Sub-Committee**

2.7.1 The Licensing of Alcohol and Gambling Sub-Committee is an ad hoc Sub-Committee with a membership of 3 members chosen from the 12 members of the full Committee and summoned by the Assistant Director (Legal and Democratic Services) to deal with the licensing matters specified on the Agenda. A meeting of the Sub-Committee shall not be quorate if less than three members are present.

2.7.2 The Sub-Committee shall have the delegated power from the full Committee to deal with the following licensing matters, and in all cases the Sub Committee may take any of the steps for the determination of those matters as may be set out in the relevant legislative provisions so indicated:

### **Licensing Act 2003**

- 2.7.3 Determination of an application for a premises licence where relevant representations have been made and not withdrawn (s.18).
- 2.7.4 Determination of an application for a provisional statement where relevant representations have been made and not withdrawn (s.31)
- 2.7.5 Determination of an application to vary a premises licence where relevant representations have been made and not withdrawn (s.35)
- 2.7.6 Determination of an application to specify a designated premises supervisor on a premises licence where an objection notice has been given and not withdrawn (s.39)
- 2.7.7 Determination of an application to transfer a premises licence where an objection notice has been given and not withdrawn (s.44)
- 2.7.8 Cancellation of an interim authority notice where an objection notice has been given and not withdrawn (s.48)
- 2.7.9 Determination of an application for review of a premises licence (s.52)
- 2.7.10 Determination of an application for summary review of a premises licence (s.53C), and setting of interim steps pending review (s.53B)
- 2.7.11 Determination of application for a club premises certificate where relevant representations have been made and not withdrawn (s.72)
- 2.7.12 Determination of application to vary a club premises certificate where relevant representations have been made and not withdrawn (s.85)
- 2.7.13 Determination of an application for review of a club premises certificate (s.88)
- 2.7.14 Issue of a counter-notice following an objection to a standard temporary event notice (s.105)
- 2.7.15 Imposition of conditions on a standard temporary event notice following an objection (s.106A)

- 2.7.16 Determination of application for grant of a personal licence, where an objection notice has been given and not withdrawn (s.120)
- 2.7.18 Consideration of convictions coming to light after grant or renewal of a personal licence, where an objection notice has been given and not withdrawn (s.124)
- 2.7.19 Determination of a review of a premises licence following a closure order and magistrates' court notification (s.167)
- 2.7.20 Imposition of restrictions on dancing and live music, on review of a premises licence or club premises certificate (s.177, s.177A)
- 2.7.21 Decision to make representation when the authority is consulted on a premises licence application by a neighbouring licensing authority

### **Gambling Act 2005**

- 2.7.22 Determination of application for a premises licence where representations have been made and not withdrawn, or where it is proposed to attach an additional condition or exclude a default condition (s.163, s. 169)
- 2.7.23 Determination of application to vary a premises licence where representations have been made and not withdrawn, or where it is proposed to attach an additional condition or exclude a default condition (s.187)
- 2.7.24 Determination of application to transfer a premises licence where representations have been made and not withdrawn, or where it is proposed to attach an additional condition or exclude a default condition (s.188)
- 2.7.25 Determination of application to reinstate a premises licence where representations have been made and not withdrawn, or where it is proposed to attach an additional condition or exclude a default condition (s.195)
- 2.7.26 Determination of a review of a premises licence (s.201)
- 2.7.27 Determination of application for a provisional statement where representations have been made and not withdrawn, or where it is proposed to attach an additional condition or exclude a default condition (s.204)
- 2.7.28 Issue of counter-notice following receipt of a notice of objection in respect of a temporary use notice (s.224)

- 2.7.29 Dismissal of objections given in respect of temporary use notices (s.225)
- 2.7.30 Refusal of application for a family entertainment centre gaming machine permit, or for renewal of an existing permit (Sched. 10)
- 2.7.31 Refusal of application for registration for the promotion of small society lotteries, or revocation of registration (Sched. 11, part 5)
- 2.7.32 Determination of applications for a club machine permit or club gaming permit, where objections have been made and not withdrawn, or consideration of the cancellation of permits (Sched. 12)
- 2.7.33 Refusal of application for a licensed premises gaming machine permit, grant for lesser/lower number of machines than requested, or cancellation or variation of permit (Sched. 13)
- 2.7.34 Refusal of transfer of licensed premises gaming machine permit (by virtue of refusal of an application for transfer of an alcohol licence)
- 2.7.35 Refusal of application for a prize gaming permit, or for renewal of an existing permit (Sched. 14)

## **2.8 DELEGATION TO OFFICERS FROM LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE**

### **Licensing Act 2003**

	<b>MATTER TO BE DEALT WITH</b>	<b>TO WHOM DELEGATED</b>
2.8.1	Application for a personal licence where no police objection is made and the applicant has no unspent convictions	Assistant Director (Legal and Democratic Services)
2.8.2	Application for a premises licence/club premises certificate where there are no relevant representations made	Assistant Director (Legal and Democratic Services)
2.8.3	Application for a provisional statement (where premises being built, etc) where there are no relevant representations made	Assistant Director (Legal and Democratic Services)

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|--------|--|--|
| 2.8.4  | Application to vary a premises licence/club premises certificate where there are no relevant representations made          | Assistant Director (Legal and Democratic Services) |
| 2.8.5  | Application for a provisional statement (where premises being built, etc) where there are no relevant representations made | Assistant Director (Legal and Democratic Services) |
| 2.8.6  | Application to vary designated premises supervisor where there is no police objection                                      | Assistant Director (Legal and Democratic Services) |
| 2.8.7  | Request to be removed as designated premises supervisor  | Assistant Director (Legal and Democratic Services) |
| 2.8.8  | Application for a transfer of a premises licence where there is no police objection  | Assistant Director (Legal and Democratic Services) |
| 2.8.9  | Applications for an interim authority where there is no police objection   | Assistant Director (Legal and Democratic Services) |
| 2.8.10 | A decision on whether a complaint is irrelevant, frivolous, vexatious, etc   | Assistant Director (Legal and Democratic Services) |

Rights of Entry for the following purposes

- |        |  |   |
|--------|--|---|
| 2.8.11 | The inspection of premises before the grant, variation or review of a licence or a provisional statement                                     | Assistant Director (Legal and Democratic Services)      |
| 2.8.12 | To investigate whether a licensable activity is being carried on in accordance with an authorisation   | Assistant Director (Legal and Democratic Services)<br>) |
| 2.8.13 | To assess the likely effect of a temporary event notice on the promotion of the crime prevention objective in the Council's Licensing Policy | Assistant Director (Legal and Democratic Services)      |

Authorised persons

- |        |  |  |
|--------|--|--|
| 2.8.14 | To act as 'authorised persons' for the purposes of the Licensing Act 2003. | Assistant Director (Legal and Democratic Services) together with any one or more of his/her staff who he/she so authorises |
|--------|--|--|

## **Gambling Act 2005**

	<b>MATTER TO BE DEALT WITH</b>	<b>TO WHOM DELEGATED</b>
2.8.15	Application for premises licence where no representations received/representations have been withdrawn.	Assistant Director (Legal and Democratic Services )
2.8.16	Application for a variation to a licence where no representations received/representations have been withdrawn.	Assistant Director (Legal and Democratic Services )
2.8.17	Application for a transfer of a licence where no representations received from the Gambling Commission.	Assistant Director (Legal and Democratic Services )
2.8.18	Application for a provisional statement where no representations received/representations have been withdrawn.	Assistant Director (Legal and Democratic Services )
2.8.19	Application for club gaming/club machine permits where no objections made/objections have been withdrawn	Assistant Director (Legal and Democratic Services )
2.8.20	Applications for other permits	Assistant Director (Legal and Democratic Services )
2.8.21	Cancellation of licensed premises gaming machine permits	Assistant Director (Legal and Democratic Services )
2.8.22	Consideration of temporary use notice	Assistant Director (Legal and Democratic Services )
2.8.23	Fee setting (when appropriate)	Assistant Director (Legal and Democratic Services )

## **2.9 The Appeals and Reviews Committee**

2.9.1 The Appeals and Reviews Committee is an ad hoc committee with a membership of 5 members of the Council chosen from a pool of Members appointed by the Council who have received appropriate training and summoned by the Assistant Director (Legal and Democratic Services) to deal with matters specified on the Agenda.

### **2.9.2 Terms of Reference**

The function of the Appeals and Reviews Committee is to hear and determine all appeals and reviews with regards to

any decision made by or on behalf of the Council in relation to the following matters:

- (i) The determination of appeals brought by employees against dismissals resulting from redundancy, misconduct, ill-health and capability.
- (ii) To consider any objections and representations that have been duly made, in respect of a Tree Preservation Order and to confirm or modify any such Order.
- (iii) The determination of appeals against decisions made in relation to discretionary rate relief.

## **2.10 Audit Committee**

2.10.1 Shall comprise of 6 members of the Council.

2.10.2 The Audit Committee shall meet a minimum of 4 times a year and in accordance with the cycle of meetings approved annually by the Council.

2.10.3 Terms of Reference

The functions of the Audit Committee shall be to exercise the audit powers of the Council in relation to:

External Audit:

- (i) To consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's governance arrangements.
- (ii) To consider summaries of specific Internal Audit reports as requested.
- (iii) To consider reports dealing with the management and performance of the providers of Internal Audit Services
- (iv) To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- (v) To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance.
- (vi) To consider specific reports as agreed with the External Auditor

- (vii) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (viii) To liaise with the Public Sector Audit Appointments (PSAA LTD) over the appointment of the Council's external auditor.
- (ix) To commission work from Internal and External Audit.

#### Regulatory Framework:

- (x) To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- (xi) To review any issue referred to it by the Chief Executive, Chief Finance Officer, Strategic Director, or any Council body.
- (xii) To monitor the Governance and Risk arrangements within the Council.
- (xiii) To monitor council policies on 'Raising Concerns at Work' and 'Anti-fraud and corruption'.
- (xiv) To oversee the production of the Council's Annual Governance Statement and to formally agree it.
- (xv) The Council's arrangements for governance and agreeing necessary actions to ensure compliance with best practice.
- (xvi) The Council's compliance with any relevant legislation and its own and other published, policies standards and controls.

#### Accounts

- (xvii) To review and approve the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit.
- (xviii) To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### Support

- (xix) In order that the Audit Committee can exercise its audit powers properly it may require any senior officer to attend before the Audit Committee to answer questions within their remit and it is the duty of those persons to attend if so required".



### **3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

- 3.1 Executive functions are grouped together in the form of 'Cabinet Portfolios', the number and scope of which are agreed by the Leader.
- 3.2 The Leader may discharge any of those executive functions which are the responsibility of the Leader and Cabinet, or may arrange for the discharge of any of those functions by the Cabinet, by another member of the Cabinet, by a committee of the Cabinet, or by an officer of the Council.
- 3.3 The Leader is responsible for allocating responsibility for the Cabinet Portfolios among the individual members of the Cabinet. The Leader will allocate the Cabinet Portfolios on an annual basis. The table at Schedule 1 below sets out which Cabinet Member is currently responsible for each particular Portfolio. Schedule 1 also shows the relevant Directorate(s) in respect of each Portfolio.
- 3.4 The delegation of executive functions from the Leader and Cabinet to Chief Officers is set out in Schedule 2.
- 3.5 The onward delegation of executive functions from Chief Officers to other officers is set out in Schedule 3.
- 3.6 If or to the extent that the functions which are the responsibility of the Leader and Cabinet are not allocated under Schedule 1, the Leader may discharge any of those functions or may arrange for their discharge by the Cabinet collectively, or by a committee of the Cabinet, or by an individual Cabinet Member or by an officer of the Council.
- 3.7 Any function allocated under Schedule 1 to an individual Cabinet Member may, during the absence of that Cabinet Member, or during his or her inability to act for any other reason, or during the vacancy of that Cabinet position, be exercised by the Leader.

**CABINET PORTFOLIOS AND DIRECTORATES**

**SCHEDULE 1**

<b>PORTFOLIO RESPONSIBILITIES</b>	<b>OVERVIEW &amp; SCRUTINY</b>	<b>LEAD OFFICERS</b>
<p><b>Climate Change and Ecological Emergency</b>  <b>Cllr Adrian England</b></p> <p>Climate Change                      Ecological Emergency</p>	<p><b>Principally: Finance &amp; Resources</b></p>	<p>Strategic Director (People and Transformation)</p> <p>Head of Transformation</p>

PORTFOLIO RESPONSIBILITIES	OVERVIEW & SCRUTINY	LEAD OFFICERS
<p><b>Portfolio Holder for Corporate and Commercial Services</b></p> <p><b>Corporate and Commercial Services</b>            Financial Services            Revenues and Benefits            Legal and Democratic Services            Licensing</p> <p><b>Commercial Strategy and Programme</b>            Commercial and Capital Project Delivery oversight            Procurement            Contract Management            Strategic Asset Review            Shared Services exploration (corporate approach)</p> <p><b>GF Property Services</b>            Commercial property            Compliance            Responsive repairs and key to key services            Valuation and Estates            Building Services and Facilities Management</p>	<p><b>Principally FINANCE &amp; RESOURCES</b>            Audit Committee            Standards Committee            Licensing Committee</p>	<p><b>Strategic Director (Corporate and Commercial Services)</b>  <b>Strategic Director (People &amp; Transformation)</b>  <b>Strategic Director (Housing and Property Services)</b></p> <p>Chief Finance Officer (S.151 Officer)            Assistant Director Legal and Democratic Services (Monitoring Officer)</p> <p>Assistant Director (Property Services)            Assistant Director (Strategic Housing and Delivery)            Head of Commercial Development</p>

PORTFOLIO RESPONSIBILITIES	OVERVIEW & SCRUTINY	OFFICER SUPPORT
<p><b>Portfolio Holder for Neighbourhood Operations:</b></p> <p><b>Environmental Services</b>  Fleet Services  Waste Transformation  Garden Waste  Commercial Waste  Depot Services  Refuse and Recycling</p> <p><b>Neighbourhood Management</b>  Clean Safe and Green  Parks and Open Spaces  Trees and Woodlands  Cemeteries and Bereavement services  Parking Services  Garage Management</p> <p><b>Environmental Protection</b>  Corporate Health Safety and Resilience  Environmental Health  Operations and Public Health</p>	<p><b>Principally STRATEGIC PLANNING AND ENVIRONMENT</b></p>	<p><b>Strategic Director (Neighbourhood Operations)</b></p> <p>Head of Environmental Services  Head of Regulatory Services  Head of Neighbourhood Management  Head of Corporate Health and Safety</p>

PORTFOLIO RESPONSIBILITIES	OVERVIEW & SCRUTINY	OFFICER SUPPORT
<p><b>Portfolio Holder for Housing and Property Services:</b></p> <p><b>Housing Operations and Safe Communities</b>  HRA Housing Management  Housing Needs and Allocations  General Fund Accommodation Services  Safe Communities  Private Sector Housing  Homeless Prevention  Asylum and Refugees</p> <p><b>Strategic Housing and Delivery</b>  Strategy Quality and Assurance  Investment and Project Delivery  Housing Delivery</p> <p><b>HRA Property Services</b>  Safe Homes  Asset Management  Commercial Housing Contracts</p>	<p><b>Principally, HOUSING &amp; COMMUNITY</b></p>	<p><b>Strategic Director (Housing and Property Services)</b></p> <p>Assistant Director (Strategic Housing and Delivery)  Assistant Director (Housing Operations and Safe Communities)  Assistant Director (Property)</p> <p>Head of Housing Operations  Head of Safe Communities  Head of Strategy, Quality and Assurance  Head of Investment and Delivery  Head of Safe Homes  Head of Asset Management  Head of Commercial Housing Contracts</p>

PORTFOLIO RESPONSIBILITIES	OVERVIEW & SCRUTINY	OFFICER SUPPORT
<p><b>Portfolio Holder for Place</b></p> <p><b>Planning</b>            Development Management            Land Charges            Planning Enforcement            Strategic Planning            Infrastructure/ Developer Contributions</p> <p><b>Place &amp; Enterprise</b>            Inward Investment            Economic Growth            Place Strategies</p> <p><b>Communities</b>            Community Partnerships &amp; VCS liaison            Arts and Culture &amp; Old Town Hall Theatre            Adventure Playgrounds            Sports and Leisure/Health</p> <p><b>Partnership Programmes</b>            Hemel Garden Communities            SW Herts JSP</p>	<p><b>Principally, STRATEGIC PLANNING &amp; ENVIRONMENT</b></p>	<p><b>Strategic Director (Place)</b></p> <p>Assistant Director (Planning)            Assistant Director (Place, Communities &amp; Enterprise)            Heads of Arts and Culture            Head of Place Strategy and Delivery            Head of Communities            Head of Development Management            Hemel Garden Communities            Programme Director            SW Herts Joint Strategic Plan Director</p>

PORTFOLIO RESPONSIBILITIES	OVERVIEW & SCRUTINY	OFFICER SUPPORT
<p><b>Portfolio Holder for People and Transformation</b></p> <p>People (HR, OD and Equality and Diversity)            Digital            Transformation            Performance and complaints            CSU            Project Management Office            Corporate Governance            Communications and Engagement            Civic Events</p>	<p><b>Principally, RESOURCES</b></p> <p><b>FINANCE</b></p> <p><b>AND</b></p>	<p><b>Strategic Director (People and Transformation)</b></p> <p>Assistant Director (People)            Head of Digital            Head of Communications and Engagement            Head of Transformation</p>

**SCHEME OF DELEGATION FROM THE CABINET TO CHIEF OFFICERS**

**PART 1**

**Overall Basis**

- 1.1 In relation to delegation of powers and duties generally the Council has approved, as part of its Executive Arrangements, the following broad principles for determining the distribution of decisions within the Council's political management structure:
- (i) Major strategic/policy decisions and regulatory issues (e.g. development control and licensing) are made or dealt with by full Council or a Committee of the Council.
  - (ii) Strategic/policy issues are dealt with by full Cabinet.
  - (iii) Major operational issues are dealt with by individual Cabinet Members.
  - (iv) Straightforward operational issues are dealt with by officers at an appropriate level of seniority.
  - (v) Matters for information only should be distributed to all Members via a separate regular information bulletin (including performance management information).
- 1.2 This Scheme delegates the functions of the Cabinet to officers and should be interpreted widely rather than narrowly.
- 1.3 This Scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation, including appointment and dismissal of staff and authorising the affixing of the Common Seal.
- 1.4 This Scheme operates under the Local Government Act 2000 ("the Act") and all other powers enabling the Council.
- 1.5 None of the provisions contained in this Scheme which delegates the exercise of powers or duties to officers prevent the Cabinet from exercising those powers or duties.
- 1.6 This Scheme can be amended, varied, temporarily amended for specified purposes or revoked by the Cabinet at any time.



## **Overall Limitations**

- 1.7 This Scheme does not delegate to officers:
- (i) Any matter which is not the responsibility of the Cabinet by virtue of the Act, any Regulations made thereunder or the Executive Arrangements adopted by the Council.
  - (ii) The power to make new policy or amend any policy which has been adopted by the Council or the Cabinet.
  - (iii) The power to exceed the provision of capital and revenue budgets for their services except insofar as authorised by the Council's Financial Regulations or Procurement Standing Orders.
  - (iv) Any other matter which is specifically excluded in this Scheme.
- 1.8 Officers shall exercise delegated powers in accordance with:
- (i) The provisions of legislation, in particular the requirements of the Act and Regulations made thereunder in respect of the taking and recording of Key Decisions;
  - (ii) The provisions of the Constitution and Executive Arrangements adopted by the Council;
  - (iii) The requirements of Sections 1.10-1.16 below in respect of consultation with Members.
  - (iv) Policies approved by the Council or the Cabinet;
  - (v) Instructions from the Chief Executive as Head of Paid Service.
- 1.9 In exercising delegated powers, officers shall have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988.

## **Consultation with Members**

- 1.10 Before taking any decision on behalf of the Council, an officer must consider whether to involve Members.
- 1.11 If the matter is a straightforward operational issue (e.g. a purely routine technical or professional matter) which is not controversial in any way, Members will not need to be involved.

- 1.12 If the matter has local significance, but no general significance for the Council and no controversial aspects, the officer shall inform the Ward Member(s) in writing and proceed. **It is essential that officers ensure that Ward Members are kept properly informed on issues affecting their Wards.**
- 1.13 If the matter has general significance for the Council or is, or is likely to be, controversial, the officer shall consult with the relevant Cabinet Member before proceeding. In some cases it will be necessary to consult more than one Cabinet Member, and in some cases the Leader will need to be consulted.
- 1.14 Consultation may be in writing but officers must allow sufficient time for the consultee to respond before a decision is taken.
- 1.15 A consultee may ask that other Members' views be sought, including those of the Ward Member(s).
- 1.16 If the Cabinet Member concurs with the officer's proposed course of action, the officer may proceed.

#### **Further Provisions**

- 1.17 This Scheme includes the power for officers to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officers. Sub-delegations shall be recorded in a register kept by the Assistant Director (Legal and Democratic Services). Sub-delegations may be made across strategic departmental boundaries and to other Councils and their officers.
- 1.18 Wherever possible officers shall devolve responsibilities for service delivery and management (whether or not involving sub-delegation under this Scheme) to the nearest practicable point to the service user and in a way, which clearly identifies accountabilities.
- 1.19 It shall always be open to an officer not to exercise his/her delegated powers but to refer the matter to the Cabinet for decision.
- 1.20 In exercising delegated powers, officers shall consult with such other officers as they determine appropriate and shall have regard to any advice given.
- 1.21 The Scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the post-holder's appointment.

## **PART 2**

### **Delegation to Officers of the Council**

- 2.1 This Part of the Scheme describes which functions of the Cabinet have been allocated to individual officers of the Council.
- 2.2 It is important that this Part of the Scheme is read in conjunction with the provisions in Part 1 which set out the limitations and constraints placed on officers when exercising these delegated powers and duties.

#### **A. TO THE CHIEF EXECUTIVE**

- (a) To be responsible for all aspects of operational management of the Council.
- (b) To authorise, after consultation with the Leader of the Council, twinning arrangements.
- (c) To incur expenditure, and grant funding to any external organisation or Council contractor as the Chief Executive deems appropriate, in the event of a civil emergency. The Chief Executive will report all expenditure and funding made pursuant to this delegation to the next available Cabinet and Council meeting.
- (d) To manage the co-ordination of budget processes, including overall strategy, planning and information.
- (f) To approve Special Severance payments of £20,000 and above, but below £100,000, subject to agreement with the Leader of the Council, and consultation with S.151 Officer and Monitoring Officer, and agree the terms of any associated Settlement Agreements.
- (g) To approve all early retirements and redundancies, subject to an assessment on Best Value and consultation with the Monitoring Officer and S.151, and to report on a six-monthly basis to the relevant Cabinet Portfolio holder on the use made of this power.
- (h) To approve funding for interim resource to deliver corporate priorities subject to a budget being approved in accordance with the Council's Financial Regulations and to report all expenditure and funding on a six-monthly basis to the relevant Cabinet Portfolio holder on the use made of this power.
- (i) All operational matters in relation to civil aid and emergency planning.
- (j) In cases of urgency, after consultation with the Leader of the Council and the relevant Cabinet Member, to take any decision which could be taken by the Cabinet.

Note: The Chief Executive is Head of Paid Service.

**B. TO THE STRATEGIC DIRECTOR (CORPORATE AND COMMERCIAL SERVICES)**

- (a) The functions of the Cabinet in relation to operational matters falling within the Corporate and Commercial Services) Directorate as shown in the table below

<b>Commercial</b>	<b>Corporate</b>
Commercial Strategy and Programme Corporate Project Delivery Procurement Contract Management Strategic Asset Review Shared Services exploration – corporate approach	Financial Services Revenues and Benefis Legal and Democratic Services Elections and Electoral registration Licensing

- (b) Except for:
- (i) Grants to external organisations of above £2,000 per annum.
  - (ii) Any relevant income and charging strategies.
  - (iii) Major restructuring proposals.
- (c) To make recommendations on the above service areas as follows:

- (i) On major operational decisions – to the relevant individual Cabinet Member.
- (ii) On strategic or policy issues – to the Cabinet.
- (ii) On major strategic issues – to the Council.

**C. TO THE STRATEGIC DIRECTOR (NEIGHBOURHOOD OPERATIONS)**

- (a) The functions of the Cabinet in relation to operational matters falling within the Neighbourhood Operations Directorate, as shown in the table below.

<p><b>Environmental Services</b>  Fleet Services  Waste Transformation  Garden Waste  Commercial Waste  Depot Services  Refuse and Recycling</p> <p><b>Neighbourhood Management</b>  Clean Safe and Green  Parks and Open Spaces  Trees and Woodlands  Cemeteries and Bereavement services  Parking Services  Garage Management</p>	<p><b>Environmental Protection</b>  Corporate Health Safety and Resilience  Environmental Health  Operations and Public Health</p>
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Except for:

- (i) Grants to external organisations of above £2,000 per annum.
  - (ii) Any relevant income and charging strategies.
  - (iii) Major restructuring proposals.
- (b) To make recommendations on the above service areas as follows:
    - (i) On major operational decisions – to the relevant individual Cabinet Member.

- (ii) On strategic or policy issues – to the Cabinet.
- (iii) On major strategic issues – to the Council.

**D. TO THE STRATEGIC DIRECTOR (PLACE)**

- (a) The functions of the Cabinet in relation to operational matters falling within the Place Directorate, as shown in the table below.

<p><b>Partnership Programmes</b> Hemel Garden Communities SW Herts Joint Strategic Plan</p> <p><b>Communities</b> Community Partnerships Arts and Culture Adventure Playgrounds Sports and Leisure/Health</p>	<p><b>Planning</b> Development Management Land Charges Planning Enforcement Strategic Planning Infrastructure/ Developer Contributions including Suitable Alternative Natural Greenspace (SANG)</p> <p><b>Place &amp; Enterprise</b> Inward Investment Economic Growth Place Strategies</p>
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Except for:

- (i) Grants to external organisations of above £2,000 per annum.
  - (ii) Any relevant income and charging strategies.
  - (iii) Major restructuring proposals.
- (b) To make recommendations on the above service areas as follows:
- (i) On major operational decisions – to the relevant individual Cabinet Member.
  - (ii) On strategic or policy issues – to the Cabinet.
  - (iv) On major strategic issues – to the Council.
- (c) Development Plan Documents

To respond on behalf of the Council to any representations made in respect of the Core Strategy or a Development Plan Document

which has been submitted to the Secretary of State, except that, the Leader of the Council shall be responsible for responding on behalf of the Council where there are major planning policy issues involved and/or major changes to a Development Plan Document are being suggested by officers.

(d) Strategic Environmental Assessments

To make determinations on behalf of the Council as local planning authority as required under regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 as to whether or not a plan, programme or modification of a description referred to therein is likely to have significant environmental effects.

The Strategic Director (Place) will be responsible:

- (i) To initiate apply and/or act in relation to the provisions of the Derelict Land Act 1982.
- (ii) To commission, initiate and/or review ground stabilisation works as are necessary in relation to Council land and/or its statutory or public obligations.

(e) Suitable Alternative Natural Green Space (SANG)

Cabinet has delegated the following authorisations in respect of SANG.

Decision	delegated authority to:
1 Approval for Council owned public open space to be used as SANG, where these sites have previously been reported to Cabinet.	<ul style="list-style-type: none"> <li>• Portfolio Holder for Corporate and Commercial Services and Portfolio Holder for Place (for Council owned land)</li> <li>• Portfolio Holder for Place (for non-council owned)</li> </ul>
2 Approval of extensions to existing SANG sites by adding further parcels / adjustments to the red line boundary of a SANG.	<ul style="list-style-type: none"> <li>• Portfolio Holder for Corporate and Commercial Services and Portfolio Holder for Place (for Council owned land)</li> <li>• Portfolio Holder for Place (for non-council owned)</li> </ul>
3 Approval of SANG management plans for new SANG sites, and for these to be made publicly available.	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director - Planning, and the Strategic Director - Neighbourhood Operations</li> </ul>
4 Approval of amendments or updates to	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director -</li> </ul>

<p>existing SANG management plans (eg changes in interventions, management plans for later time periods/phases, or additions due to SANG sites being extended as per 2 above).</p>	<p>Planning, and the Strategic Director - Neighbourhood Operations</p>
<p>5 Approval for spending SANG contributions paid to the Council (to include post-commencement charges).</p>	<ul style="list-style-type: none"> <li>• S151 or Deputy S151 Officer</li> </ul>
<p>6 Adoption of SANG sites or public open space sites provided/gifted by a developer where recommended by officers.</p>	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director - Planning, in consultation with the Strategic Director - Housing and Property Services and/or the Strategic Director - Neighbourhood Operations</li> </ul>
<p>7 Decisions relating to the use of third party SANG by a developer.</p>	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director - Planning or the Head of Development Management</li> </ul>
<p>8 Approval of revised/varied Council-led SANG tariff (amending the tariff approved by Cabinet in November 2022)</p>	<ul style="list-style-type: none"> <li>• Portfolio Holder of Place in consultation with the Strategic Director - Place and the S151 or Deputy S151 Officer</li> </ul>
<p>9 Approval of revisions to the Chilterns Beechwoods SAC Mitigation Strategy including variations to the Allocations Protocol for Council owned SANG.</p>	<ul style="list-style-type: none"> <li>• Portfolio Holder for Place in consultation with the Strategic Director - Place</li> </ul>
<p>10 Approval for officers to offer Council SANG capacity to development within the borough.</p>	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director - Planning or the Head of Development Management</li> </ul>
<p>11 Approval for officers to offer Council SANG capacity to development outside of the borough where this is deemed appropriate or beneficial by officers.</p>	<ul style="list-style-type: none"> <li>• Strategic Director - Place or the Assistant Director - Planning</li> </ul>



**E. TO THE STRATEGIC DIRECTOR (PEOPLE AND TRANSFORMATION)**

- (a) The functions of the Cabinet in relation to operational matters falling within the People and Transformation Directorate, as shown in the table below.

<p><b>People and Transformation</b>                  People (Human Resources, Occupational Development and Equality and Diversity)                  Digital Transformation                  Performance                  Customer Services Unit                  Project Management Office                  Corporate Governance                  Communications and Engagement                  Events</p>	
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Except for:

- (i) Grants to external organisations of above £2,000 per annum.
  - (ii) Any relevant income and charging strategies.
  - (iii) Major restructuring proposals.
- (b) To make recommendations on the above service areas as follows:
- (i) On major operational decisions – to the relevant individual Cabinet Member.
  - (ii) On strategic or policy issues – to the Cabinet.
  - (v) On major strategic issues – to the Council.

**F. TO THE STRATEGIC DIRECTOR (HOUSING AND PROPERTY SERVICES)**

- (a) The functions of the Cabinet in relation to operational matters falling within the Housing and Property Directorate, as shown in the table below.

<p><b>Housing Operations and Safe Communities</b>                  HRA Housing Management                  Housing Needs and Allocations                  General Fund Accommodation                  Services</p>	
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<p>Safe Communities Private Sector Housing Homeless Prevention Asylum and Refugees</p> <p><b>Strategic Housing and Delivery</b> Strategy Quality and Assurance Investment and Project Delivery Housing Delivery</p> <p><b>HRA Property Services</b> Safe Homes Asset Management Commercial Housing Contracts</p> <p><b>General Fund Property Services</b> Compliance Responsive repairs and key to key services Valuation and Estates Building Services and Facilities Management</p> <p><b>Development Services</b> Housing development Capital project delivery</p>	
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Except for:

- (i) Grants to external organisations of above £2,000 per annum.
  - (ii) Any relevant income and charging strategies.
  - (iii) Major restructuring proposals.
- (b) To make recommendations on the above service areas as follows:
- (i) On major operational decisions – to the relevant individual Cabinet Member.
  - (ii) On strategic or policy issues – to the Cabinet.
  - (vi) On major strategic issues – to the Council.

**G. TO THE CHIEF FINANCE OFFICER**

- (a) To be responsible to the Council for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- (b) To manage the Council's banking arrangements.
- (c) To manage the Council's Borrowing and Lending Portfolio.
- (d) To implement national and local pay awards and increase payments under the Pension Increase Acts.
- (e) To manage the Council's insurance arrangements.
- (f) To manage the Council's Leased Car and Car Loan Scheme.
- (g) To agree the writing-off of debts of any value where the debtor has gone into liquidation or bankruptcy
- (h) To review, in consultation with the relevant Portfolio Holder, the monetary value thresholds for accepting credit card payments and where commission charges may be added to service costs for non-statutory services.
- (i) To set and monitor the Internal Audit Programme

Note: The Chief Finance Officer is the S.151 Officer

#### **H. TO THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

- (a) To be responsible for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- (b) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal.
- (c) To authorise officers of the Council to appear in the Crown and Magistrates Courts and County Courts.
- (d) To take decisions as Proper Officer of the Council except where legislation or this scheme names another officer and to authorise the making and issue of any formal documents.
- (e) To be the Senior Information Risk Officer for the purposes of compliance with the Council's responsibilities under the Data Protection Act in relation to information security.
- (f) To be the Senior Responsible Officer for the purposes of compliance with the Council's policies and procedures on the use of covert surveillance and the use of covert human intelligence

sources and with the requirements of the Regulation of Investigatory Powers Act 2000 and the Codes of Practice made thereunder.

- (g) To be the delegated person for instituting Proceeds of Crime investigations under the Proceeds of Crime Act 2002 on behalf of the Council (whilst the Council's enforcement officers shall be delegated as investigating officers).

Note: the Assistant Director (Legal and Democratic Services) is the Council's Monitoring Officer

### **SCHEDULE 3**

#### **SCHEME OF ONWARD DELEGATION FROM CHIEF OFFICERS TO OTHER OFFICERS**

##### **A. FROM THE CHIEF EXECUTIVE**

<b>POWER OR FUNCTION</b>	<b>TO WHOM DELEGATED</b>
1. To control the salaries and wages budget	Each Member of Corporate Leadership Team
2. To make appointments and promotions within the authorised establishment other than Chief Officer.	Each Member of Corporate Leadership Team
3. To make temporary appointments additional to the authorised establishment.	Each Member of Corporate Leadership Team
4. To suspend an employee from duty or to take other appropriate action in accordance with the approved procedures for conduct and capability	Each Member of Corporate Leadership Team
5. To dismiss an employee	Each Member of Corporate Leadership Team
6. To authorise in-service training including day release, study leave and financial assistance in accordance with national and local agreements	Each Member of Corporate Leadership Team
7. To authorise the attendance of employees at training courses, qualification courses and other development events	Each Member of Corporate Leadership Team
8. To grant special leave with pay for	Each Member of Corporate

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|     | extraneous duties (e.g. acting as Justice of the Peace, or Jury Service) or arising out of the illness or death of a near relative   | Leadership Team  |
| 9.  | To grant leave of absence without pay  | Each Member of Corporate Leadership Team   |
| 10. | To authorise employees, in exceptional circumstances, to carry forward annual leave from one year to the next  | Each Member of Corporate Leadership Team   |
| 11. | To authorise attendance by employees at conferences, seminars and the like concerning their duties   | Each Member of Corporate Leadership Team   |
| 12. | To authorise the payment of installation costs of telephones in the homes of employees where this is considered necessary in the performance of their jobs, and telephone rentals and business calls where justified                     | Chief Officers   |
| 13. | To approve bonus schemes and methods of remunerating employees of like effect subject to equal value considerations  | Strategic Leadership Team  |
| 14. | To authorise the granting of leave with pay (additional to normal entitlement) to employees attending annual camps associated with service in non-regular forces   | Each Member of Corporate Leadership Team   |
| 15. | To implement awards and recommendations in regard to salaries, wages and service conditions of any National Joint Negotiating Body recognised by the Council. Such awards and recommendations to be reported to a meeting of the Cabinet | Chief Finance Officer  |
| 16. | To approve, or otherwise vary the allocation of, essential or casual user car allowances for posts in the authorised establishment   | Each Member of Corporate Leadership Team   |
| 17. | To approve loans to employees for the purchase of cars and other forms of transport for use on the Council's business  | Each Member of Corporate Leadership Team in consultation with the Chief Finance Officer) |

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| 18. | To authorise the payment of lodging and travelling home allowances; removal expenses allowances, within the Council's approved relocation scheme   | Each Member of Corporate Leadership Team                             |
| 19. | To allocate service tenancies in relation to general fund properties to authorised employees   | Strategic Director (Housing and Property)                            |
| 20. | To authorise the provision of uniforms or protective clothing for employees  | Each Member of Corporate Leadership Team                             |
| 21. | To authorise payments in respect of clothing and personal items damaged accidentally in the course of an employee's duties   | Each Member of Corporate Leadership Team                             |
| 22. | To deal with the letting of rooms at the Forum, Hemel Hempstead, Berkhamsted Civic Centre and Victoria Hall, Tring and use of the foyer and forecourt areas  | Assistant Director (property Services) and Head of Property Services |
| 23. | To exercise the powers of the Council to refuse applications for regrading from employees.   | Each Member of Corporate Leadership Team                             |
| 25. | To approve the redesignation of posts provided there are no cost implications  | Each Member of Corporate Leadership Team                             |
| 26. | To approve the regrading of posts in the establishment (other than Chief Officers) within the overall budget provision and to report from time to time to the relevant Cabinet Portfolio holder on the use made of these powers. | Chief Officers   |
| 27. | To award payment of benefits in respect of retirement on compassionate ground or any other payments permitted by virtue of the Local Government (Discretionary Payments) Regulations 1996s                                       | Chief Officers   |
| 28. | To approve Special Severance payments up to a value of £20,000 and agree the terms of any associated Settlement Agreements.  | Chief Officers in consultation with the S.151 and Monitoring Officer |
| 29. | To approve all matters relating to the   | Strategic Director (Housing and                                      |

acquisition, appropriation, sale or other disposal of land and buildings having a current market value of £5,000 or less.

Property Services), Assistant Director (Property) Head of Property Services in consultation with the Chief Finance Officer

NB: For authority to dispose of land valued at £500,000 and above please refer to the Financial Regulations, Annex F, Section 1 Land Disposals paragraph 1.c) at page 47 and to paragraph 1.d) for land valued at more than £5000 but less than £500,000.

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| 30. | To exercise the powers of the Council in respect of the management and control of all general fund land and buildings owned by the Council.   | Strategic Director (Housing and Property Services), Assistant Director (Property Services), Head of Property Services  |
| 31. | To settle and execute, either under seal or under hand (as appropriate), any contract, agreement, lease, notice or document of a like nature required to give effect to any decision of the Council or of the Cabinet or any Committee or employee acting under delegated powers. | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services,<br><br>Any other post with designated Deputy Monitoring Officer duties. |
| 32. | To serve notices requiring information as to use of, operations carried out on and ownership or interest in property pursuant to any statute or statutory instrument.   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 33. | To institute legal proceedings in relation to any matter contained in this Scheme, at the direction of the employee having delegated power in that behalf   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 34. | To authorise the issue of formal cautions in lieu of prosecutions in appropriate cases  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 35. | To agree the quantum of costs awarded to or against the Council in the course of legal proceedings.   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 36. | To recover possession of any land (including buildings) from persons who have entered without the Council's consent.  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |

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| 37. | To release bonds on the completion of contracts   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services   |
| 38. | To prepare and maintain a list of politically restricted posts under s.2 of the Local Government and Housing Act 1989 and any regulations made thereunder   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services   |
| 39. | To authorise any officer of the Council to prosecute, defend and appear on behalf of the Council in proceedings before a magistrates' court or a County Court in accordance with S.223 Local Government Act 1972 and S.60 County Court Acts 1984  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services ) |
| 40. | To enter into contracts and/or extend existing contracts in respect of the purchase of gas and electricity supplies as is necessary to service the Council's properties and, more generally, in terms of the award, extension, renewal and termination of such arrangements as are in the best interests of the Council | Strategic Director (Corporate and Commercial Services) or Head of Commercial Development    |



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| 41. | To purchase or lease fleet vehicles subject to the Capital Programme and Fleet Strategies in pursuance of the Council's operational requirements  | Strategic Director (Neighbourhood Operations), Head of Environmental Services or Chief Finance Officer   |
| 42. | To appoint representatives to replace those who resign from outside organisations and school governing bodies during the municipal year   | Assistant Director (Legal and Democratic Services) in consultation with the relevant Group Leader  |
| 43. | To initiate, manage and determine corporate contracts in accordance with Procurement Standing Orders  | Head of Commercial Development   |
| 44. | To institute proceedings under S.64 (1) Local Government (Miscellaneous Provisions) Act 1976 against any drivers reported to have parked on a duly appointed Hackney Carriage stand         | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services<br>Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services |
| 45. | To exercise all the functions, duties and powers of the Council contained in the Scrap Metal Dealers Act 2013 or in any amendments thereto or in any secondary legislation made thereunder. | Assistant Director (Place, Communities and Enterprise)<br>Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services                                    |
| 46. | To award grants of up to £5000 to community organisations who are eligible under the criteria which is applied in the Council's grants process.   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 47. | To grant licenses for the use of land as a caravan site where the conditions to be applied follow the Council's standard conditions (Caravan Sites and Control of Development Act 1960)     | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |
| 48. | To authorise the institution of legal proceedings for offences under the Pet Animals Act 1951, the Animal Boarding Establishments Act 1963  | Assistant Director (Legal and Democratic Services)   |
| 49. | To grant licenses for the use of land as a caravan site where the conditions to be applied follow the Council's standard conditions (caravan Sites and Control of Development Act 1960)     | Assistant Director (Legal and Democratic Services), Assistant Director (Property), Head of Property  |
| 50. | To exercise the powers of the Council under section 19 of the Criminal Justice and Police Act 2001(closure notices)   | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services  |

**B. FROM THE STRATEGIC DIRECTOR  
(CORPORATE AND COMMERCIAL SERVICES)**

1. To invest and raise loans in exercise of any borrowing authorised by the Council in accordance with statute, all necessary consents and the Voluntary Code of Practice for Local Authority Borrowing Chief Finance Officer
2. To apply to the High Court for the payment to the Council of money paid into court under ss.76 or 85 Land Clauses Consolidation Act 1845 or s.9 or Schedule 2 to the Compulsory Purchase Act 1965 where after twelve years a court has not ordered payment of it to anyone else Chief Finance Officer
3. To make and to agree or object to proposals for the valuation of property for local taxation purposes. Chief Finance Officer
4. To serve or withdraw completion notices in respect of newly erected buildings in pursuance of Paragraph 1 Schedule 4A to the Local Government Finance Act 1988. Chief Finance Officer
5. To administer Housing Benefit, Council Tax Benefit, Discretionary Housing Payment, Local Scheme and any subsequent modifications in accordance with statutory provisions and assess applications and claims in respect of same. Chief Finance Officer
6. To grant disability allowances under the Local Government Finance Act 1992. Chief Finance Officer
7. To remit rates on Business Rate properties on the grounds of hardship under section 49 Local Government Finance Act 1988 Chief Finance Officer
8. To bill, collect and enforce Council Tax Chief Finance Officer

and Non-Domestic Rates in accordance with statutory provisions

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| 9.  | To submit proof of debt or relevant claim in insolvency proceedings  | Chief Finance Officer |
| 10. | To recover rates, other debts or damages.  | Chief Finance Officer |
| 11. | To institute proceedings to recover overpaid Housing Benefit   | Chief Finance Officer |
| 12. | To reduce or remit payment of Non-Domestic rates in accordance with the schemes agreed by the Council under<br><br>S.47 Local Government Finance Act 1988 – Discretionary Rate Relief to Charitable and Other Organisations<br><br>S.1 Local Government and Rating Act 1997 – Discretionary Rate Relief for businesses in rural areas. | Chief Finance Officer |
| 13. | To authorise the institution of proceedings for any offence under s.111 and s.112 of the Social Security Administration Act 1992 and/or the Theft Act 1968 (including the authorisation of any other sanctions referred to in these Acts)  | Chief Finance Officer |

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| 14. | To award contracts relating to any insurance claim in satisfaction of agreements reached with a loss adjuster | Chief Finance Officer |
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Renovation Grants

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| 15. | To approve applications for grants for house renovations  | Assistant Director (Housing Operations and Safe Communities)   |
| 16. | To deal with the repayment of house renovation grants where there has been a breach of the conditions attached to the grant | Assistant Director (Housing Operations and Safe Communities)   |
| 17. | To authorise and make the following payments  |  |
|     | (1) Compensation payable in respect of closing or demolition orders (S.584A Housing Act 1985)                               | Assistant Director (Housing Operations and Safe Communities)   |
|     | (2) Home loss payments where persons displaced from dwelling (Ss.29 and 30 Land Compensation Act 1973)                      | Assistant Director (Housing Operations and Safe Communities)   |
|     | (3) Disturbance payments for persons without compensatable interests (Ss.37 and 38 Land compensation Act 1973)              | Assistant Director (Housing Operations and Safe Communities)   |
| 18. | To authorise proceedings in respect of alleged harassment or unlawful eviction.   | Assistant Director (Legal and Democratic Services), Assistant Director (Housing Operations and Safe Communities) |

Leisure, Sport and Recreation

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| 19. | To deal with the letting of pitches and recreational facilities | Head of Property Services |
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| 20. | To deal with the letting for specific occasions or performances of the Old Town Hall and any other Council buildings used for entertainments or other leisure pursuits.  | Head of Property Services  |
| 21. | To grant permission for the use of public parks and recreation grounds for organised functions and to approve the taking of collections at such functions.   | Head of Property Services  |
| 22. | To make grants, not exceeding £1,000 in any one case to non-profit making organisations in the Borough having recreational, sporting, artistic, cultural, community services or entertainment's aims or interests.   | Chief Finance Officer  |
| 23. | To deal with the allocation of allotments.   | Head of Property Services  |
| 24. | To serve Notice to Quit Allotments and to authorise any necessary proceedings to recover possession in the event of arrears of rent, poor cultivation, or for any other reason in pursuance of a decision of the Council or of a Committee acting under delegated power. | Head of Property Services  |
| 25. | To accept the transfer of amenity open space not exceeding 0.25 hectares when completed on private housing developments, on payment of a commuted sum estimated to cover 25 years' maintenance costs.  | Chief Finance Officer in consultation with the relevant Strategic Director |
| 26. | To review and revise charges for the use of facilities and participation in activities.  | Head of Property Services  |

Anti-Social Behaviour

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| 27. | To authorise the application for an injunction against a person aged 10 or over under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014. | Assistant Director (Housing Operations and Safe Communities), Head of Housing operations, Head of Safe Communities, in consultation with Assistant Director (Legal and Democratic Services ) |
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| 28.        | To authorise the issue of a closure notice and application for a closure order in respect of premises used or likely to be used to commit nuisance or disorder under Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014.                | Chief Executive or relevant Strategic Director in consultation with the relevant Assistant Director and the Assistant Director (Legal and Democratic Services ) where the specified duration of the closure notice exceeds 24 hours.                      |
| 29.        | To authorise the issue of Community Protection Notices under Part 4, Chapter 1 of the Ant-social Behaviour, Crime and Policing Act 2014  | Head of Regulatory Services, Head of Neighbourhood Management, Head of Safe Communities, Head of Housing Operations in consultation with the Assistant Director (Legal and Democratic Services)   |
| 30.        | To authorise the application and confirmation of a public spaces protection order under Part 4, Chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014 and to set the sum payable for fixed penalty notices for contravention of the relevant order | Assistant Director (Housing Operations and Safe Communities) in consultation with the relevant Assistant Director and the Assistant Director (Legal and Democratic Services )   |
| 31.<br>(a) | To authorise officers to issue fixed penalty notices pursuant to any public space protection order in force.   | Assistant Director (Housing Operations and Safe Communities), Head of Regulatory Service, Head of Neighbourhood Management, Head of Safe Communities in consultation with Assistant Director (Legal and Democratic Services)                              |
| 32.        | To give penalty notices for graffiti and fly posting. (Section 43 Anti-Social Behaviour Act 2003)  | Assistant Director (Housing Operations and Safe Communities), Head of Regulatory Services, Head of Housing Operations, Head of Neighbourhood Management, Head of Safe Communities in consultation with Assistant Director (Legal and Democratic Services) |

**C. FROM THE STRATEGIC DIRECTOR (HOUSING AND PROPERTY SERVICES)**

**POWER OR FUNCTION**

**TO WHOM DELEGATED**

Housing Management

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| 1. | To allocate the tenancies of dwellings in accordance with the Council's Allocation Policy and its Choice Based Lettings Scheme and to provide nominations to Registered Providers in line with nomination agreements and the Council's Allocations Policy. | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Housing Needs Manager, Housing Needs Lead Officers  |
| 2. | To deal with exchanges of tenancies of Council dwellings, including mutual exchanges between tenants, transfers of tenancies to survivors of the same household and reciprocal transfers with other local authorities                                      | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations  |
| 3. | To deal with cases of homelessness   | Assistant Director (Housing Operations and Safe Communities), Head of Housing, Housing Options Manager  |
| 4. | To determine reviews requested under section 202 of the Housing Act 1996 (as amended)  | Assistant Director (Housing Operations and Safe Communities), Head of Safe Communities, Housing Options Manager or the Reviews, Insight and Improvement Officer                       |
| 5. | To grant to homeless persons licences to occupy temporarily Council dwellings and to determine such licences as necessary  | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Safe Communities, Housing Options Manager, Temporary Accommodation (Review) Manager |
| 6. | To allocate the tenancies of garages held for housing purposes which do not  | Assistant Director (Housing Operations and Safe   |

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| comprise part of a commercial letting  | Communities), Head of Housing Operations, Head of Commercial Development   |
| 7. To deal with all matters of estate management falling within the conditions of tenancy of dwellings or garages held for housing purposes which do not comprise part of a commercial letting   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Commercial Development |
| 8. (1) To serve a Notice of Seeking Possession in respect of any dwellings let under a secure tenancy, or a Notice to Quit in respect of any other dwelling held for housing purposes which do not comprise part of a commercial letting | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                                 |
| (2) To determine by notice the tenancies of garages held for housing purposes and not comprising part of a commercial letting for non-payment of rent or other breaches of the conditions of tenancy                                     | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Commercial Development |
| (3) To serve a notice of proceedings for possession in respect of any dwelling let under an introductory tenancy   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                                 |
| (4) To conduct a review of a decision to seek an order for possession of a dwelling let under an introductory tenancy  | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                                 |
| (5) To serve a notice of extension to the trial period in relation to an introductory tenancy.   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                                 |
| (6) To conduct a review of a decision that the trial period for an introductory tenancy should be extended   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                                 |
| (7) To apply to the Court for a demotion order in respect of any dwelling let under a secure   | Assistant Director (Housing Operations and Safe Communities), Head of Housing  |



	tenancy	Operations
(8)	To serve a notice of proceedings for possession in respect of any dwelling let under a demoted tenancy	Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations
(9)	To conduct a review of a decision to seek an order for possession of a dwelling let under a demoted tenancy	Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations
(10)	To make application for a Possession Order in respect of any Council dwelling where considered necessary	Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services
(11)	To make application for a Possession Order in respect of any Council dwelling where considered necessary in a case of serious arrears of rent or licence fees in respect of temporary accommodation	Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Safe Communities
9.	To authorise the institution of proceedings for the recovery of sums in respect of which cheques have been tendered for rent or arrears of rent which are subsequently dishonoured.	Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations
10.	To authorise the commencement of possession proceedings where considered necessary in respect of any dwellings held for housing purposes which do not comprise part of a commercial letting.	Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations

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| 11. | To authorise the repossession (including the enforcement of any order for possession) of any dwellings held for housing purposes which do not comprise part of a commercial letting.   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                           |
|     | <u>Anti-social Behaviour (Tenants and Leaseholders)</u>  |  |
| 12. | To serve a notice of proceedings for possession on absolute ground for anti-social behaviour in respect of any dwelling let under a secure tenancy under Part 5 of the Anti-social Behaviour, Crime and Policing Act 2014.   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Safe Communities |
| 13. | To conduct a review of a decision to seek possession on absolute ground for anti-social behaviour in respect of any dwelling let under a secure tenancy under Part 5 of the Anti-social Behaviour, Crime and Policing Act 2014.  | Assistant Director (Housing Operations and Safe Communities), Head of Safe Communities                             |
| 14. | To authorise the commencement of injunction proceedings in relation to conduct capable of causing nuisance or annoyance to any person insofar as the conduct relates to any dwellings held for housing purposes which do not comprise part of a commercial letting (including the authorisation of any subsequent proceedings necessary to enforce breaches of any such injunction), or insofar as the conduct directly or indirectly relates to or affects the housing management functions of the Council. | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Safe Communities |
| 15. | To approve terms and conditions for the leasing of properties from Government departments and other public bodies for use as housing accommodation   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Head of Safe Communities |

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| 16. | To grant applications for loans or the purchase or improvement or repair of houses within the Borough and to grant consent to the letting, transfer or sale of, or otherwise relating to, property in mortgage to the Council. | Chief Finance Officer, Head of Financial Services, Assistant Director (Housing Operations and Safe Communities)      |
| 17. | To seal vacating receipts on redemption of mortgage.   | Assistant Director (Legal and Democratic Services), any other post with designated Deputy Monitoring Officer duties. |
| 18. | To accept tenders for items included in the approved budget for housing repairs and maintenance provided that no tender shall be accepted which is in excess of the provision of the budget.                                   | Assistant Director (Property)  |
| 19. | Right to Buy Scheme  |  |
|     | (1) To make such determinations of fact as are necessary for the purposes of Part V of the Housing Act 1985 or any scheme extending the Right to Buy   | Relevant Assistant Director  |
|     | (2) To respond to a written notice claiming to exercise the right to buy served upon the Council by a secure tenant  | Chief Finance Officer, Head of Financial Services,   |
|     | (3) To agree to include in the sale of a dwellinghouse land used for the purposes of the dwellinghouse which is not let to the tenant under the tenancy of the dwellinghouse (e.g. a garage or accessway)                      | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                             |
|     | (4) To consent to members of a tenant's family who reside with him or her, but have done so for less than 12 months, sharing the Right to Buy  | Chief Finance Officer  |
|     | (5) To determine all valuations required to be made by the Council for the purpose of Part V of the Act or of any scheme extending the Right to Buy  | Chief Finance Officer  |

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| (6)  | To agree and settle the provisions to be contained in conveyances, leases and mortgage deeds for the purpose of Part V of the Act or any scheme extending the Right to Buy     | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services                             |
| (7)  | To grant extensions of the period for claiming to exercise the right to a mortgage   | Chief Finance Officer   |
| (8)  | To serve notice requiring a tenant to complete the transaction within a specified period   | Assistant Director (Legal and Democratic Services)  |
| (9)  | To grant extensions of the period for serving notice claiming entitlement to defer completion  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services                             |
| (10) | To sign and give Certificates of Title to convey the freehold or make the grant  | Assistant Director (Legal and Democratic Services ) or a solicitor or barrister employed by or acting for the Council |
| (11) | To accept as sufficient evidence of the matters declared therein, any statutory declaration made for the purpose of Part V of the Act or any scheme extending the Right to Buy | Chief Finance Officer) in consultation with the Assistant Director (Legal and Democratic Services)                    |
| (12) | To consent to a disposal to a person satisfying the condition stated in S.157(3), where a locality covenant is imposed by the Council  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services                             |
| (13) | To make applications under paragraph 11 of Schedule 5 Housing Act 1985 for determination of the Right to Buy in respect of dwellings occupied by the elderly                   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                              |
| (14) | To determine applications for assignment under S.92 Housing Act 1985 and to consent to subletting under S.94 Housing Act 1985.   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations                              |

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| (15) | To give consent, in accordance with section 156 of the Housing Act 1985, to the Council postponing its charge on premises in respect of liability to repay the statutory discount under the Right to Buy Scheme in favour of any advance or further advance provided to the tenant or former tenant by an external lender. | Chief Financial Officer  |
| (16) | To agree to the service of a Initial and Final Demolition Notice in accordance with Schedule 5(A) Housing Act 1985   | Chief Financial Officer  |
| 20.  | To determine freehold reversion sales.   | Chief Financial Officer  |
| 21.  | To prove for housing rents in bankruptcy or liquidation.   | Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations |
| 22.  | To authorise the institution of proceedings for possession and arrears in cases of default by mortgagors.  | Chief Financial Officer  |
| 23.  | To deal with applications under the Right to Repair Scheme including payment to tenants.   | Assistant Director (Property)  |
| 24.  | To agree terms for the purpose of individual properties under the Acquisition of Existing Properties Scheme.   | Chief Financial Officer  |

25. To exercise the powers of the Council in respect of the management and control of all Housing Revenue Account land and buildings owned by the Council for development purposes including, but not limited to, authorising the completion of:
- (i) leases, licenses, easements and wayleaves
  - (ii) Planning obligations under S.106 Town and Country Planning Act 1990
  - (iii) Agreements under S.278 Highways Act 1980
- Assistant Director (Housing Operations and Safe Communities), Head of Housing Operations, Assistant Director (Property)
26. To make all decisions/determinations serve notices and authorise the taking of any necessary action in pursuance of the Council's licensing and enforcement responsibilities (including, but not limited to, the service of notices and orders, imposing civil penalties, arranging for the carrying out of remedial works, the recovery of expenses and the keeping of registers of licences and orders) and all other duties or powers which the Council may have in accordance with the following statutory provisions and any orders or regulations made thereunder:
- Assistant Director (Housing Operations and Safe Communities)
- (1) Housing Act 2004
    - Part 1 – Housing Conditions
    - Part 2 – Licensing of Houses in Multiple Occupation
    - Part 3 - Selective Licensing of Other Residential Accommodation
    - Part 4 - Additional Control Provisions in Relation to Residential Accommodation
    - Part 6 - Chapter 3 Mobile Homes
    - Chapter 5 Miscellaneous
    - Part 7 - Supplementary Powers
    - Including any relevant schedules contained in the Act.
  - (1a) Housing and Planning Act 2016
    - All parts, sections, schedules, regulations and orders relating to private sector landlords and property agents.
  - (1b) Smoke and Carbon Monoxide Alarm (England) Regulations (2015)

- (1c) Energy Efficiency (Private Rented Property) (England and Wales) Regulations (2015)
- (1d) Enterprise and Regulatory Reform Act 2013 (Tenancy Redress Schemes s.83-88)
- (1e) Sections 60, 62, 65, 66, 78, 84, 95, 96 & 99 Buildings Act 1984
- (1f) Sections 62, 91 Control of Pollution Act 1974
- (1g) Section 33 Environmental Protection Act 1990
- (1h) Works for preventing unauthorised entry to certain unoccupied premises or for preventing such premises from being a danger to public health (s.29 Local Government (Miscellaneous Provisions) Act 1982).
- (1i) Sections 331(2)(c), 335, 336, 337, 338, 340 and 600 Housing Act 1985
- 1j) Housing Grants Construction and Regeneration Act 1996, Regulatory Reform Act 2001,
- (1k) Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
- (1l) Section 16 Local Government (Miscellaneous Provisions) Act 1976
- (1m) Part II Section 2 and Schedule 3 – Local Government (Misc Provisions) Act 1982
- (1n) Sections 13-17 Local Government (Misc Provisions) Act 1982
- (1o) Private Rented Sector (England) Regulations 2020

27. request of the occupier of a dwelling, for the undertakers to restore or continue to supply gas, water or electricity to the dwelling where it is, or is likely to be, cut off because of the failure of the owner to pay for it; and to exercise the Council's powers of recovery of any sum due in consequence of such action (S.33 Local Government (Miscellaneous Provisions) Act 1976).
- Assistant Director  
(Housing Operations)  
& Safe  
Communities

## Property and Asset Management

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| 28. | To give undertakings to and enter into agreements with the Water Undertaker for the provision of a supply of water for new buildings erected by or for the Council.  | Head of Property Services                         |
| 29. | To take licences, wayleaves or easements over private land where necessary for the use or enjoyment by the Council of land or premises in its ownership or for the purpose of carrying out any function.   | Head of Property Services                         |
| 30. | To grant:  |   |
|     | (a) Leases, tenancies and licences for any period other than in respect of dwellings and garages used for housing purposes.  | Head of Property Services                         |
|     | (b) Wayleaves and easements  |   |
| 31. | To consent to assignment, subletting, charging or change of use, in respect of any lease (other than dwellings and garages used for housing purposes).   | Head of Property Services                         |
| 32. | To determine or accept the surrender (in whole or in part) or vary the terms and conditions (including as to rent) of any lease, tenancy or licence of property owned by the Council (other than dwellings and garages used for housing purposes) including the payment of any compensation due under the Landlord and Tenant Act 1954, without recourse to court proceedings. | Head of Property Services                         |
| 33. | To seek planning permission and building control consent in order to carry out development which the Council propose to carry out.   | Head of Property Services,<br>Head of Development |



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| 34. | To manage the Council's markets.   | Head of Property Services |
| 35. | To authorise the use of Council land and buildings for the delivery of services, allocate space appropriately and re-allocate space that is under-utilised or being inefficiently used.          | Head of Property Services |
| 36. | To approve the release and/or variation of restrictive covenants (including the terms and conditions of such release) which have been imposed in relation to any former Council property or land | Head of Property Services |

**D. FROM THE STRATEGIC DIRECTOR (PLACE)**

**POWER OR FUNCTION**

**TO WHOM DELEGATED**

**Regeneration**

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| 1. | To sign any document required for the purpose of making, amending or substantiating any form of application to obtain funding to effect the Council's Economic Development  | Strategic Director (Place),<br>Assistant Director (Place,<br>Communities and Enterprise)                            |
| 2. | To amend any document relating to any form of application to obtain funding to effect the Council's Economic Development Strategy, where the amendment is necessary to correct an error and/or to give effect to a decision of the Council or of the Cabinet or any Committee, Sub-Committee or employee acting under delegated powers. | Strategic Director (Place),<br>Assistant Director (Place,<br>Communities and Enterprise)                            |
| 3. | To approve the provision of and expenditure on hospitality and the undertaking of any expenditure on overseas travel and the incurring of attendant expenses in relation to such overseas travel in connection with any application for funding to effect the Council's Economic Development Strategy.                                  | Assistant Director (Place,<br>Communities and Enterprise)<br>in consultation with the<br>Strategic Director (Place) |
| 4. | (a) To authorise the delegation of the decision on naming streets within a parish to the appropriate Town or Parish Council and to settle the terms of formal agency arrangements between the Council and the appropriate Town or Parish Council to enable such decisions to take effect  | Assistant Director (Legal and<br>Democratic Services)   |
|    | (b) To settle the names of streets in unparished areas of Hemel Hempstead   | Assistant Director (Legal and<br>Democratic Services ) or the<br>Information Security Team<br>Manager               |
|    | (c) To settle the names of streets in parished areas of the Borough where no such arrangements as mentioned in (a) above have been entered into or authorised   | Assistant Director (Legal and<br>Democratic Services ) or the<br>Information Security Team<br>Manager               |

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| 5. | To number and renumber streets   | Assistant Director (Legal and Democratic Services ) or the Information Security Team Manager |
|    | Building Control   |  |
| 6. | The carrying out of all functions, and the making of decisions or determinations on all matters falling to be considered by the Council under or in connection with the Building Act 1984 or the Building Regulations 2010 and associated legislation. | Lead Building Control Officer or the Head of Development Management                          |
| 7. | To authorise the issue of permits for access by vehicles to the pedestrianised areas of town centres and the institution of legal proceedings for breach of the conditions of such permits   | Assistant Director (Planning)  |
| 8. | In relation to the pedestrianised area of Hemel Hempstead Town Centre  |  |
|    | (1) To grant Street Trading Licences under Part VIIA Highways Act 1980, approve the terms of such Licences, allocate trading pitches and approve any variations of the Street Trading Policy.  | Assistant Director (Planning)  |

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| (2) | To administer street trading under Part VIIA Highways Act 1980, including logging enquiries, processing applications and Street Trading Licences, making recommendations to members, enforcement of breaches of Licence Conditions and to exercise power to withdraw Licences or prohibit unlicensed traders. | Assistant Director (Planning)  |
| 9.  | To accept, make use of and keep confidential statistical information received from outside agencies relating to Development Plan matters  | Head of Development Management                                       |
| 10. | To determine applications for the removal of Public Telephone Kiosks under Communications Act 2003  | Assistant Director (Planning) and the Head of Development Management |

## Community Infrastructure Levy (CIL)

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| 11. | To make all decisions relating to liability for CIL payments contained in the Community Infrastructure Levy Regulations 2010 (as amended) including but not limited to decisions relating to calculation, exemptions, relief from CIL, surcharges, and internal reviews. | Assistant Director (Planning)<br>Head of Development<br>Management or the Team<br>Manager (Strategic Planning and<br>Regeneration)             |
| 12. | To make all enforcement decisions relating to CIL Stop Notices as detailed in Part 9 Chapter 2 of the Community Infrastructure Levy Regulations 2010 (as amended).   | Assistant Director (Planning)<br>Head of Development<br>Management, the Assistant<br>Team Manager(Planning<br>Enforcement)                     |
| 13. | To determine whether to accept land as payment in kind in accordance with Part 8 regulation 73 of the Community Infrastructure Levy Regulations 2010 (as amended).   | Assistant Director (Planning)<br>Assistant Director Place,<br>Communities and Enterprise) in<br>consultation with the Chief<br>Finance Officer |
| 14. | To serve Demand Notices, manage the collection and accounts for CIL and distribute funds to infrastructure providers, Town and Parish Councils and Ward Councillors as approved by Council.  | Chief Finance Officer, Head of<br>Financial Services   |
| 15. | To authorise the commencement of any action to recover CIL contained in Part 9 Chapter 3 of the Community Infrastructure Levy Regulations 2010 (as amended).   | Assistant Director (Planning)<br>Head of Development<br>Management, the Assistant<br>Team Manager(Planning<br>Enforcement)                     |

## **E. FROM THE STRATEGIC DIRECTOR (NEIGHBOURHOOD OPERATIONS)**

### **Cemeteries**

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|----|--|-------------------------------------|
| 1. | To deal with the grant, transfer or surrender of rights of burial and the maintenance of graves in accordance with the Council's regulations | Head of Neighbourhood<br>Management |
| 2. | To grant relief from the payment of double fees in respect of the interment of former residents  | Head of Neighbourhood<br>Management |

## Public Health

3. To make decisions, serve notices and arrange for the carrying out of works or the taking of other necessary action (including the authorisation of any criminal or civil proceedings) in pursuance of or in default of compliance with any notice or Court Order, in accordance with the following statutory provisions:

- |     |   |                             |
|-----|---|-----------------------------|
| (1) | S.48 Public Health Act 1936<br>(Examination and testing of drains)  | Head of Regulatory Services |
| (2) | S.50 Public Health Act 1936<br>(Overflowing and leaking cesspools)  | Head of Regulatory Services |
| (3) | s.79 Public Health Act 1936<br>(Power to require removal of noxious matter by occupier of premises in urban district) | Head of Regulatory Services |
| (4) | SS.83-85 Public Health Act 1936<br>(Filthy and verminous premises, articles and persons and their clothing)           | Head of Regulatory Services |
| (5) | S.140 Public Health Act 1936<br>(Closing or restricting use of water from polluted source of supply)                  | Head of Regulatory Services |
| (6) | S.141 Public Health Act 1936<br>(Power to deal with insanitary cisterns, &c)  | Head of Regulatory Services |
| (7) | S.259 Public Health Act 1936<br>(Nuisances in connection with watercourses, ditches, ponds etc)                       | Head of Regulatory Services |
| (8) | s.264 Public Health Act 1936 (Urban authority may require repair and cleansing of culverts)                           | Head of Regulatory Services |

(9)	S.268 Public Health Act 1936 (Tents, vans, etc)	Head of Regulatory Services, Assistant Director, Housing Operations and Safe Communities , Head of Safe Communities
(10)	s.275 Public Health Act 1936 (Power of local authority to execute certain work on behalf of owners or occupiers.	Head of Regulatory Services, Assistant Director, Housing Operations and Safe Communities , Head of Safe Communities
(11)	s.287 Public Health Act 1936 (Power to enter premises)	Head of Regulatory Services, Assistant Director, Housing Operations and Safe Communities, Head of Safe Communities Assistant Director (Strategic Housing)
(12)	s.290 Public Health Act 1936 (Provisions as to appeals against, and the enforcement of, notices requiring execution of works)	Head of Regulatory Services, Assistant Director, Housing Operations and Safe Communities , Head of Safe Communities
(13)	Prevention of Damage by Pests Act 1949	Head of Regulatory Services
(14)	S.20 Clean Air Act 1993 (Proceedings in cases arising from emission of smoke in smoke control areas)	Head of Regulatory Services
(15)	S.24 (1) Clean Air Act 1993 (Adaptation of fireplaces in private dwellings)	Head of Regulatory Services
(16)	S.17 Public Health Act 1961 (Repair of drains and stopped-up drains)	Head of Regulatory Services
(17)	S.22 Public Health Act 1961 (Cleansing or repairing of drains)	Head of Regulatory Services
(18)	S.34 Public Health Act 1961 (Accumulations of rubbish)	Head of Regulatory Services

(19)	S.36 Public Health Act 1961 (vacation of premises during fumigation)	Head of Regulatory Services
(20)	S.74 Public Health Act 1961 (power to reduce number of pigeons)	Head of Regulatory Services
(21)	S.14-16 Clean Air Act 1993 (Height of chimneys)	Head of Regulatory Services
(22)	S.23 Clean Air Act 1993 (Acquisition and Sale of Unauthorised Fuel in Smoke Control Area)	Head of Regulatory Services
(23)	S.60 Control of Pollution Act 1974 (Control of noise on construction sites)	Head of Regulatory Services
(24)	S.61 Control of Pollution Act 1974 (Prior consent for work on construction sites)	Head of Regulatory Services
(25)	SS.10, 11, 12, 6 and 36 Clean Air Act 1993 (Measurement of and requiring information about air pollution)	Head of Regulatory Services
(26)	S.93 Control of Pollution Act 1974 (Power of obtaining information)	Head of Regulatory Services
(27)	S.35 Local Government (Miscellaneous Provisions) Act 1976 (Removal of obstructions from private sewers)	Head of Regulatory Services
(28)	SS.29, 30, 31 and 32 Local Government (Miscellaneous Provisions) Act 1982 (Protection of Buildings)	Head of Regulatory Services
(29)	S.28 Public Health (Control of Disease) Act 1984 (Prohibiting	Head of Regulatory Services



	work where notifiable disease exists)	in consultation with the Director of Public Health at Hertfordshire County Council
(30)	S.59 Building Act 1984 (Drainage of building)	Head of Regulatory Services
(31)	S.64 Building Act 1984 and S.45 Public Health Act 1936 (Defective or unsatisfactory closets)	Head of Regulatory Services
(32)	S.76 Building Act 1984 (Defective premises – urgent action)	Head of Regulatory Services, Assistant Director, (Housing Operations and Safe Communities)
(33)	Part III of the Environmental Protection Act 1990 (Statutory Nuisances)	Head of Regulatory Services
(34)	S.103 Clean Air Act 1993	Head of Regulatory Services
(35)	S.51 Clean Air Act 1993	Head of Regulatory Services
(36)	(Part II of the Environmental Protection Act 1990 section 59 and 59za (Powers to require removal of waste unlawfully deposited and supplementary power in relation to owner of land)	Head of Regulatory Services
(37)	S.59, 60,62, 64,65,66,76,78, 84, 93, 95,96, 99 Building Act 1984	Head of Regulatory Services
(38)	S.60,61, 62, 91, 92, 93 Control of Pollution Act 1974	Head of Regulatory Services
(39)	S.6,7,8,9,10,11,13,14, 19(2), 22(2), 22(4), 33, 59, 78b(3), 78c, 78e, 78m 78n, 80(i) 80(ii), 81, 88, , 9), 94A, 94B,149 Environmental Protection Act 1990	Head of Regulatory Services  Head of Regulatory

(40) S.45,48,50,79,141,259,264,275,287,290 Public Health Act 1936 Services

4. To approve grant applications for the purposes of complying with smoke control orders. Head of Regulatory Services
5. To make application for any such Order as is authorised by S.47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951 (removal of persons in need of care and attention). Assistant Director (Legal and Democratic Services) in consultation with a senior Doctor in Public Health or a consultant in communicable disease control

#### Smoke Free Premises

6. To exercise the enforcement duties of the Council in relation to smoke-free premises under the Health Act 2006 including the appointment of authorised officers under Section 10 of that Act. Head of Regulatory Services

#### Food Safety

7. To authorise proceedings under S.20 of the Food Safety Act 1990 (offences due to fault of another person), S.19(1) of the Food Safety and Hygiene (England) Regulations 2013 and Regulation 4 of the General Food Regulations 2004 Assistant Director (Legal and Democratic Services)
8. To exercise the powers of the Council under S.5 of the Food Safety Act 1990: Head of Regulatory Services
  - (a) To appoint by an instrument in writing Authorised Officers for the purposes of the Act, being Officers having suitable qualifications and experience
  - (b) To specify in the instrument of appointment which of the following powers are to be exercisable by each of the Officers so appointed:
    - (i) SS.9, 10, 12, 29, 30 and 32

- (ii) of the Food Safety Act 1990  
Regulations made under  
SS.16, 17, 18 and 19 of the  
Food Safety Act 1990
  - (c) To terminate any appointment so  
made whether by him or her or  
another
  - (d) To authorise the institution of legal  
proceedings for the offence of  
failing to comply with an  
Improvement Notice, Prohibition  
Order, Emergency Prohibition  
Notice or Emergency Prohibition  
Order made or issued under the  
Food Safety Act 1990
  - (e) To authorise the institution of  
proceedings for offences under  
SS.8, 14 and 15 of the Food  
Safety Act 1990
- 9. To manage the emptying of cesspools      Head of Neighbourhood  
Management
- 10. To settle the terms of and enter into      Assistant Director (Legal and  
agreements under S.21 of the Public      Democratic Services)  
Health Act 1936. (Agreements with  
County Council for use of highway drains)
- 11. To discharge the functions of a local      Head of Regulatory  
authority in relation to Air Pollution      Services  
Control under Part 1 of the Environmental  
Protection Act 1990 and Regulations  
made thereunder.
- 12. To discharge the functions of a local      Strategic Director  
authority under the Environment Act      (Neighbourhood Operations)  
1995.
- 13. To discharge the functions of a local      Head of Regulatory  
authority in relation to the Control of Dogs      Services  
under SS.149 and 150 of the  
Environmental Protection Act 1990 and  
S.13 of the Animal Health Act 1981 as  
amended by S.151 of the Environmental  
Protection Act 1990 and Orders made  
thereunder.
- 14. To enforce the provisions of the Control      Head of Regulatory  
of Pesticides Regulations 1986, as      Services  
specified by the Minister of Agriculture,      Head of Regulatory Services

Fisheries and Food under S.19 (1B) Food and Environment Protection Act 1985

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| 15. | To exercise the powers and duties in the Dangerous Dogs Act 1991   | Assistant Director (Legal and Democratic Services)  |
| 16. | To issue a Direction under Section 77 of the Criminal Justice and Public Order Act 1994 and to commence proceedings immediately against persons camping or stationing any caravan or other vehicles used or adapted for human habitation on any land in the Borough where to do so constitutes a contravention of an enforcement notice under Section 179 of the Town and Country Planning Act 1990 or contravention of an Order under Section 23 of the Caravan Sites and Control of Development Act 1960 or an offence under Section 77 of the Criminal Justice and Public Order Act 1994. | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services)                        |
| 17. | To seek such injunction or other legal action as may be considered appropriate against any person or persons in control of a caravan or vehicle which is occupied as living accommodation while stationed on any off-street parking place owned or operated by the Council.  | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services )                       |
| 18. | To grant bus permits in accordance with the Council's scheme   | Chief Finance Officer   |
| 19. | Regulatory Services (Miscellaneous)  | Head of Regulatory Services   |
|     | To exercise all of the council's powers and duties, including the making of decisions, the service of notices and the carrying out of works or the taking of any other necessary action (including the authorisation of any criminal or civil proceedings) in pursuance of, or in default of compliance with any notice or court order, in accordance with the following legislation:  | Assistant Director (Housing Operations and Safe Communities), Assistant Director, (Legal and Democratic Services) |
|     | 1) Home Energy Conservation Act 1995   |   |

- 2) Clean Neighbourhoods & Environment Act 2005 (and all other related legislation such as the Refuse Disposal (Amenity) Act 1978 and Environmental Protection Act 1990)
- 3) Pollution Prevention and Control Act 1999
- 4) Noise and Statutory Nuisance Act 1993
- 5) Protection from Eviction Act 1977
- 6) Housing Act 1988
- 7) Caravan Sites Act 1968
- 8) Water Industry Act 1991
- 9) Environmental Protection Act 1990
- 10) Sunbeds (Regulation) Act 2010
- 11) Animal Welfare Act 2006
- 12) The Microchipping of Cats and Dogs (England) Regulations 2023
- 13) Enterprise and Regulatory Reform Act 2013

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| 20. | To deal with the removal and disposal of abandoned vehicles and refuse under the Refuse Disposal (Amenity) Act 1978  | Head of Neighbourhood Management   |
| 21. | To authorise proceedings under S.87 Environmental Protection Act 1990 against persons depositing litter outside of the household waste sites in the Borough                                      | Assistant Director (Legal and Democratic Services), Head of Legal and Democratic Services) |
| 22. | To discharge the Council's functions relating to S.88 of the Environmental Protection Act 1990 and Orders made thereunder relating to the imposition of fixed penalty notices for leaving litter | Head of Regulatory Services  |

Environmental Services

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| 23. | To exercise the powers of the Council under S.25 Local Government (Miscellaneous Provisions) Act 1976 (Dangerous trees)       | Head of Neighbourhood Management            |
| 24. | To exercise the powers of the Council under S.25 Local Government (Miscellaneous Provisions) Act 1976 (Dangerous excavations) | Assistant Director (Neighbourhood Delivery) |

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| 25. | To accept the dedication of land for highway purposes where the total cost (including accommodation works and professional fees) does not exceed £5000.  | Assistant Director (Legal and Democratic Services) in consultation with the Strategic Director (Neighbourhood Operations)      |
| 26. | To accept responsibility for the maintenance of new street lighting, traffic sign lighting and traffic signals   | Head of Neighbourhood Management   |
| 27. | To adopt private streets in pursuance of S.228 Highways Act 1980   | Assistant Director (Legal and Democratic Services ) on the recommendation of the Strategic Director (Neighbourhood Operations) |
| 28. | To serve notices, deal with plans and proposals submitted under and authorise proceedings under the New Roads and Street Works Act 1991  | Head of Neighbourhood Management   |
| 29. | To issue notices, to make orders and to apply for consent to continue in force orders temporarily restricting or prohibiting traffic (SS.14, 15 and 16 Road Traffic Regulation Act 1984)       | Assistant Director (Legal and Democratic Services ) in consultation with the Strategic Director (Neighbourhood Operations)     |
| 30. | To give notice of the Council's intention to introduce all forms of traffic regulation orders and cycle track orders   | Assistant Director (Legal and Democratic Services )  |
| 31. | To make and confirm unopposed traffic regulation and cycle track orders.   | Assistant Director (Legal and Democratic Services )  |
| 32. | To arrange for floral displays and emblems.  | Strategic Director (Neighbourhood Operations) and Head of Neighbourhood Management   |
| 33. | To erect flagpoles, etc on highways, for the purpose of displaying decorations (S.144 Highways Act 1980)   | Head of Neighbourhood Management   |
| 34. | To serve notices and to take any action in default of compliance therewith under SS.46 and 47 Environmental Protection Act 1990. (Dustbins, or receptacles for commercial or industrial waste) | Head of Environmental Services   |

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| 35. | In connection with charitable events or temporary promotions by the Council and other public bodies to carry out or authorise works for the placing of structures on footpaths, bridleways and other pedestrianised areas of highway under Part VIIA Highways Act 1980 (Provision of Amenities on certain Highways) and to serve the requisite notices | Head of Neighbourhood Management   |
| 36. | To discharge the Council's functions in relation to keeping land and highways clear of litter etc under s.89 of the Environmental Protection Act 1990 and Orders made thereunder   | Head of Regulatory Services  |
| 37. | To discharge the Council's functions in relation to the service of "litter abatement notices" under S.92 and "street litter control notices" under S.93 of the Environmental Protection Act 1990 and Orders made thereunder  | Head of Regulatory Services  |
| 38. | To approve a discount charging structure for the collection of commercial waste where more than two containers are sited at the same site  |  |
| 39. | To determine the charges for the collection of materials from premises for recycling   | Head of Environmental Services in consultation with Chief Financial Officer        |
| 40. | To agree contracts and pricing structures for the disposal of materials for recycling  | Head of Environmental Services in consultation with Head of Commercial Development |
| 41. | To manage payments to local community groups for the collection of used aluminium beverage cans.   | Head of Environmental Services   |
| 42. | To exercise the powers of the Council under Sections , 25, and 64 of the Land Drainage Act 1991 (maintenance of flow of watercourses, powers to undertake drainage works against flooding, powers of entry for purposes of the Act)  | Head of Neighbourhood Management   |

## **DELEGATION TO ALL OFFICERS IN THE CORPORATE LEADERSHIP TEAM**

### **POWER OR FUNCTION**

### **LIMITS ON DELEGATION**

1. To authorise an employee of the Council to enter on any land (including buildings) in the Borough in exercise of any right of entry for any purpose in connection with the execution of the Council's functions, and to take with him or her any other persons, equipment, materials or vehicles, provided that:
  - (a) The public have access to the land; or
  - (b) the occupier (or if there is no occupier, the owner) has expressly or implicitly consented to the entry; or
  - (c) entry is urgently necessary to prevent death or injury to any person or serious damage to property
2. To authorise any employee of the Council to enter on any land (including buildings) in the Borough in exercise of any right of entry for any purpose in connection with the execution of the Council's functions and to take with him or her any other persons, equipment, materials or vehicles without the consent of the occupier or owner of the land or to apply to a court for authority to enter
3. To dispose of any lost or uncollected property which has or will become vested in the Council and to make charges for storage and administrative costs to owners of lost property.
4. To sign any notice, demand, licence, certificate or other document pursuant to any power contained in this scheme.



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| 5. | To initiate procurement exercises, accept tenders and make contracts up to a value of £250,000 for the supply of goods or materials or the execution of work or the provision of services in relation to such purposes as are under the control of the authorising employee and for which specific budgetary provision has been approved by the Council subject to the compliance with the requirements of the Council's Procurement Standing Orders.  | To report to the relevant Portfolio Holder the exercise of such power in all cases. |
| 6. | To commence procurement exercises in pursuance of Council, Cabinet or Portfolio Holder decisions   | To report to the relevant Portfolio Holder the exercise of such power in all cases  |
| 7. | To commence procurement exercises in pursuance of Council policy decisions, or operational matters set out in Part 2, A(d), B(a), C(a) and D(a) above, subject to there being specific budgetary provision previously approved by the Council and subject also to compliance with Procurement Standing Orders. This delegation requires that the authority to award a contract shall only flow from provisions elsewhere in this Part 3 Responsibility for Functions or in accordance with Procurement Standing Orders | ‘2  |
| 8. | To authorise the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.  |   |

## SCHEDULE 4 SCHEME OF DELEGATION

Provision or class of provision	Proper Officer	Substitute Proper Officer
<p>1. Every enactment not otherwise specified in this Schedule and in respect of which no express appointment of a Proper Officer is made after the coming into operation of this Constitution.</p> <p>In relation to each provision or class of provisions specified in column 1 of this Schedule the holder for the time being of the office specified in column 2 shall be the Proper Officer, provided that during any time that officer is absent or otherwise unable to act, or there is a vacancy in that office, then the holder for the time being of the office specified in column 3 shall be the Proper Officer</p> <p>Local Government Act 2000 and any regulations made thereunder</p>	Chief Executive	Assistant Director (Legal and Democratic Services)
<p>2. To act as Proper Officer on all aspects of this Act and any Regulations made thereunder</p> <p>Local Government Act 1972</p>	Chief Executive	Assistant Director (Legal and Democratic Services)
<p>3. S.83(1) To receive and witness (2) and declarations of (3) acceptance of office</p>	Chief Executive	Assistant Director (Legal and Democratic Services )
<p>4. S.84(1) To receive resignations</p>	Chief Executive	Assistant Director (Legal and Democratic Services )
<p>5. S.88(2) To convene meeting of Council to fill casual vacancy in the office of Mayor</p>	Chief Executive	Assistant Director (Legal and Democratic Services )

	<b>Provision or class of provision</b>		<b>Proper Officer</b>	<b>Substitute Proper Officer</b>
6.	S.89(1)	To receive notice of casual vacancy	Chief Executive	Assistant Director (Legal and Democratic Services )
7.	S.96(1)	To receive notice of members' pecuniary interest	Chief Executive	Assistant Director (Legal and Democratic Services )
8.	S.100B (2)	Withholding from public deposit of 'Part 2' reports	Assistant Director (Legal and Democratic Services )	Any solicitor or barrister employed by the Council
9.	S.100B (7)	Supply to newspapers of additional documents	Assistant Director (Legal and Democratic Services )	Any solicitor or barrister employed by the Council
10.	S.100C (2)	Written summary of 'Part 2' proceedings	Assistant Director, Legal and Democratic Services )	Any solicitor or barrister employed by the Council
11.	S.100D	Identifying and compiling list of 'Background Papers'	Relevant Corporate Leadership Team Officer	The most senior Officer responsible for the preparation of the report
12.	S.100F (2)	Deciding whether document discloses exempt information of certain types	Assistant Director (Legal and Democratic Services )	Any solicitor or barrister employed by the Council
13.	S.115 (2)	To receive money due from Officers	Chief Finance Officer )	Head of Financial Services
14.	S.146 (1)	Declarations and certificates with regard to securities	Chief Finance Officer	Head of Financial Services

	<b>Provision or class of provision</b>	<b>Proper Officer</b>	<b>Substitute Proper Officer</b>
15.	S.151 Administration of Council's financial affairs	Chief Finance Officer )	Head of Financial Services
16.	S.191 (2) To receive directions from Ordnance Survey	Assistant Director (Planning)	Head of Development Management
17.	S.225 (1) Deposit of documents	Assistant Director (Legal and Democratic Services)	Any solicitor or barrister employed by the Council
18.	S.229 (5) Authentication of photographic copies	Assistant Director (Legal and Democratic Services)	Any solicitor or barrister employed by the Council
19.	S.234 Authentication of documents	Relevant Strategic Director	Relevant Corporate Leadership Team Officer
20.	S.236 (9) and (10) To send By-laws to other Councils	Assistant Director (Legal and Democratic Services)	Any solicitor or barrister employed by the Council
21.	S.238 Authentication of copy Bye-laws	Assistant Director (Legal and Democratic Services)	Any solicitor or barrister employed by the Council
22.	S.248 To keep freemen's roll	Chief Executive	Head of Legal and Democratic Services
23.	12 <sup>th</sup> Sch Para 4 Executive (2)(b) and (3) To sign summons to attend Council meeting and to receive notice as to address for service of summons	Chief Executive	Assistant Director (Legal and Democratic Services)
24.	14 <sup>th</sup> Sch Para 25(7) Certification of particular resolutions	Assistant Director (Legal and Democratic Services)	Any solicitor or barrister employed by the Council

Services)

	<b>Provision or class of provision</b>	<b>Proper Officer</b>	<b>Substitute Proper Officer</b>
	<u>Public Health Act 1936</u>		
25.	S.84 Certification as to filthy or verminous articles	Assistant Director (Neighbourhood Delivery)	Head of Regulatory Services)
26.	S.343 (1) Authorised Officer	Assistant Director (Neighbourhood Delivery)	Head of Regulatory Services)
	<u>Public Health Act 1961</u>		
27.	S.17 Summary power to remedy stopped-up drains	Assistant Director (Neighbourhood Delivery)	Head of Regulatory Services, Assistant Director (Property)
28	S.36 Power to require vacation of premises during fumigation	Assistant Director (Housing Operations)	Head of Regulatory Services, Head of Housing Operations
29a	S.37 Prohibition on sale of verminous articles	Assistant Director (Neighbourhood Delivery)	Head of Regulatory Services
	<u>Representation of the People Act 1983</u>		
30.	S.8 Electoral Registration	Chief Executive	Assistant Director (Legal and Democratic Services), Elections Team Leader, Electoral Service Lead Officer
31.	S.35 Returning Officer for	Chief Executive	Assistant Director

borough and parish  
elections

(Legal and  
Democratic  
Services

Public Health (Control of Disease) Act 1984

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|-----|---|--|---|
| 32. | All the provisions of the Public Health (Control of Disease) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988, conferring powers or duties upon a proper officer or an authorised officer<br><u>Housing Act 1985</u> | Assistant Director (Housing Operations and Safe Communities) | Head of Regulatory Services, Head of Housing Operations |
| 33. | S.606 Reports on particular houses or areas   | Strategic Director (Nighbourhood Operations)                 | Head of Regulatory Services                             |

Local Government (Miscellaneous Provisions) Act 1976

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| 34. | S.41 To authorise the evidence of resolutions and minutes of proceedings etc | Assistant Director (Legal and Democratic Services) | Any solicitor or barrister employed by the Council |
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Local Government and Housing Act 1989

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| 35. | SS.2 & 3 To prepare, maintain and supervise the list of politically restricted posts within the Council's establishment | Assistant Director (Legal and Democratic Services)  | Any solicitor or barrister employed by the Council                   |
| 36. | S.4 Head of Paid Service  | Chief Executive                                     | Designated Strategic Director acting in Deputy Chief Executive role) |
| 37. | S.5 Monitoring Officer  | Assistant Director (Legal and Democratic Services ) | Deputy Monitoring Officer  |
| 38. | SS.15 & 16 To receive and deal with notices relating to the constitution and membership of political groups             | Assistant Director (Legal and Democratic Service )  | Any solicitor or barrister employed by the Council                   |

Food Safety Act 1990

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|-----|-------------|--|---|-----------------------------|
| 39. | S.49<br>(3) | To act as Proper Officer to the Council with respect to the signing of documents | Strategic Director (Neighbourhood Operations) | Head of Regulatory Services |
| 40. | S.49<br>(3) | To authorise in writing Officers to sign documents                               | Strategic Director (Neighbourhood Operations) | Head of Regulatory Services |

Localism Act 2011

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| 41. |  | To maintain a register of interest of members and co-opted members of the authority | Assistant Director (Legal and Democratic Services) | Head of Legal and Democratic Services |
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42. Building Act 2022 and associated regulations

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|--|--|-----------------------------------|-----------------|------------------------|
|  |  | To act as the Accountable Officer | Chief Executive | Deputy Chief Executive |
|--|--|-----------------------------------|-----------------|------------------------|

Author & Responsible Officer	Mark Brookes, Assistant Director, Legal and Democratic Services
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#### Table of Amendments

Date of Change	Paragraph Amended	Explanation of amendments	Authority
21/07/23	Schedule 1 p83-89	Change to Portfolios following May 2023 elections	Council May 2023
18/03/24	2.3.1	Changes to planning scheme of delegation as agreed by council on 28/02/24	Council Feb 2024
08/04/24	Various	Changes to reflect the restructures in the Housing and Property Team	Council July 2024
25/09/24	P134 para 19 (12)	Insert the Microchipping of Cats and Dogs (England) Regulations 2023 to update from the 2015 regulations	Monitoring Officer authority to update changes to legislation



**PART 4**

**RULES OF PROCEDURE**

**March 2024**

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and business**

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

The Annual Meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor and/or the Chief Executive;
- (vi) elect the Leader (only in the case of the first Annual Meeting following the ordinary election of Councillors);
- (vii) receive any report from the Leader on the appointment of the Deputy Leader and members of the Cabinet and the allocation of responsibility for the Cabinet Portfolios among the Cabinet members or any subsequent changes thereto;
- (viii) appoint 3 Overview and Scrutiny Committees, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (ix) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (x) approve a programme of ordinary meetings of the Council for the year;
- (xi) consider any business set out in the notice convening the meeting.

### **1.2 Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

## **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Mayor or the Chief Executive;
- (v) receive any report from the Leader on the appointment of members to the Cabinet and the allocation of responsibility for the Cabinet Portfolios among the Cabinet members or any subsequent changes thereto;
- (vi) receive any announcements or reports from the Leader or other Members of the Cabinet and receive questions and answers on any of those reports or on matters within their respective portfolios;
- (vii) receive questions from, and provide answers to, the public in relation to matters, which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
- (viii) deal with any outstanding business from the last Council meeting;
- (ix) receive reports or referrals from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (x) receive reports or referrals from Overview and Scrutiny Committees and receive questions and answers on any of those reports.
- (xi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xii) consider motions; and
- (xiii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.
- (xiv) deal with any Petitions as detailed in the Dacorum Borough Council Petitions Scheme 2010.

## **3. EXTRAORDINARY MEETINGS**

### **3.1 Calling extraordinary meetings**

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) The Council by resolution;
- (ii) the Mayor;

- (iii) the Assistant Director (Legal and Democratic Services);  
and
- (iv) any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

No business shall be transacted at a meeting other than that specified in the summons except as required by any enactment or as a matter of urgency in accordance with this Constitution.

## **4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

## **5. 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. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **6. CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to committee and sub-committee meetings, references to the Mayor also include the chairman of committees and sub-committees.

## **7. QUORUM**

The quorum of a meeting will be 18 members of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. DURATION OF MEETING**

All meetings of the Council, except meetings where the summons states a different time, will commence at 7.30 pm.

## **9. QUESTIONS BY THE PUBLIC**

### **9.1 General**

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council.

### **9.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

### **9.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive or the Assistant Director (Legal and Democratic Services) no later than the date and time set out in Appendix A. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

### **9.4 Number of questions**

At any one meeting no person may submit more than 1 question and no more than 2 such questions may be asked on behalf of one organisation.

### **9.5 Time allowed for questions**

The time allocated for questions by the public and replies shall not exceed one half-hour. Each questioner shall be allowed up to three minutes to put his/her question.

## **9.6 Scope of questions**

The Mayor may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

## **9.7 Record of questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

## **9.8 Asking the question at the meeting**

The Mayor will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

## **9.9 Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 9.6 above.

## **9.10 Written answers**

Any question, which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

### **9.11 Reference of question to Cabinet or a Committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to Cabinet, the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

## **10. QUESTIONS BY MEMBERS**

### **10.1 On reports of Cabinet Members**

10.1.1 The Leader and Cabinet members may make a report (either orally or in writing) to the Council on any matter falling within their portfolio.

10.1.2 Where the Leader or a Cabinet member makes a report to the Council under 10.1.1 above a member of the Council may, at the conclusion of the report, ask the Leader or Cabinet member any question without notice upon an item on the report or upon any matter falling within their portfolio.

10.1.3 Where the Leader or a Cabinet member does not make a report to the Council under 10.1.1 above a member of the Council may, nonetheless, ask the Leader or Cabinet member any question without notice upon any matter falling within their portfolio.

10.1.4 If a Cabinet member is absent a report need not be given to the Council on their behalf by another Cabinet member. Any question which may have been asked of the absent Cabinet member may be asked of the Leader. The Leader may, where appropriate, ask another Cabinet member to answer any such question.

10.1.5 The maximum time allowed for members of the Council to ask questions without notice of the Leader or a Cabinet member under 10.1.2 and 10.1.3 above and for answers to be given is 10 minutes in respect of each executive member.

### **10.2 On reports of the Cabinet or Committees**

A member of the Council may ask the Leader or the Chairman of a committee any question without notice upon an item on the report of the Cabinet or a committee when that item is being received or under consideration by the Council.

### **10.3 Questions on notice at full Council**

Subject to Rule 10.5, a member of the Council may ask:

- the Mayor
- a member of the Cabinet;
- the chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

### **10.4 Questions on notice at committees and sub-committees**

Subject to Rule 10.5, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or sub-committee.

### **10.5 Notice of questions**

A member may only ask a question under Rule 10.3 or 10.4 if either:

- (a) they have given notice in writing as set out in Appendix A; or
- (b) the question relates to urgent matters, they have the consent of the Mayor or chairman of the committee or sub-committee to whom the question is to be put and the content of the question is given in writing to the Chief Executive by 10 am on the day of the meeting.

### **10.6 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **10.7 Supplementary questions**

A member asking a question under Rule 10.3 or 10.4 may ask a maximum of three supplementary questions without notice of the member to whom the first question was asked. A supplementary question must arise directly out of the reply to the previous question.



## **11. MOTIONS ON NOTICE**

### **11.1 Notice**

Except for motions which can be moved without notice under Rule 13, written notice of every motion must be delivered to the Chief Executive or the Assistant Director (Legal and Democratic Services) not later than the date and time set out in Appendix A. These will be entered in a book open to public inspection.

### **11.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### **11.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

## **12. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Cabinet or committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;

- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to amend the Council procedure rules;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

### **13. RULES OF DEBATE**

#### **13.1 No speeches until motion seconded**

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

#### **13.2 Right to require motion in writing**

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

#### **13.3 Seconder's speech**

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

#### **13.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 10 minutes in the case of a mover of a motion and 5 minutes in the case of any other speaker without the consent of the Mayor.

#### **13.5 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;

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;

- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### **13.6 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add wordsas long as the effect of (ii) to (iv) is not to negate the motion.
- (b) 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.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) 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.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **13.7 Alteration of Motion**

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### **13.8 Withdrawal of motion**

A member may withdraw a motion which he/she has 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 motion after the mover has asked permission to withdraw it unless permission is refused.

### **13.9 Right of reply**

- (a) 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.
- (b) 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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

### **13.11 Closure motions**

- (a) 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) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **13.12 Point of order**

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

### **13.13 Personal explanation**

A member may make a personal explanation at any time. 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 Mayor on the admissibility of a personal explanation will be final.

## **14. RULING BY MAYOR/CHAIRMAN**

The Mayor/Chairman may issue a ruling during a meeting which can only be overturned by two thirds of members present voting against the ruling. The proposer of the motion to reverse the ruling will have 2 minutes to speak, the seconder will have the right to speak and there will be no debate. The Mayor/Chairman will put the motion to the vote.

## **15. PREVIOUS DECISIONS AND MOTIONS**

### **15.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 8 members.

### **15.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 8 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **16. VOTING**

### **16.1 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.

### **16.2 Mayor's casting vote**

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

### **16.3 Show of hands**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **16.4 Ballots**

The vote will take place by ballot if 3 members present at the meeting demand it. The Mayor will announce the numerical result of the ballot immediately the result is known.

## **16.5 Recorded vote**

16.5.1 If 3 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

16.5.2 A recorded vote will be required at a meeting of the Council on business to approve the Budget or set Council Tax. The minutes of the Council meeting will record the names of those voting for, against and abstaining.

(Amended 02/15)

## **16.6 Right to require individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

## **16.7 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.

## **17. MINUTES AND RECORD OF PROCEEDINGS**

17.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

17.2 No requirement to sign minutes of previous meeting 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) will be treated as a suitable meeting for the purposes of paragraph 41(11) and (2) of schedule 12 relating to signing of minutes.

### **17.3 Form of minutes**

Minutes shall record the decision of each agenda item and the full debate of the meeting will be available to view on the Council's website as a video recording. Minutes of council meetings will contain all motions and amendments in the exact form and order the Mayor put them.

### **17.4 Record of proceedings**

Those present may make a written record of the proceedings and may undertake photography or any form of sound or vision recording as long as it does not disrupt proceedings.

## **18. RECORD OF ATTENDANCE**

A record of attendance will be kept for each meeting which will be included in the minutes.

## **19. EXCLUSION OF THE PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **20. MEMBERS' CONDUCT**

### **20.1 Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **20.2 Mayor standing**

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

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

If a member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.



#### **20.4 Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Mayor may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### **20.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

### **21. DISTURBANCE BY PUBLIC**

#### **21.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

#### **21.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

### **22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

#### **22.1 Suspension**

All of these Council Procedure Rules except Rule 16.6 and 17.2 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.

#### **22.2 Amendment**

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

### **23. COMMITTEES RULE APPLICATION**

23.1 All of these Council Procedure Rules apply to meetings of full Council. Rules 4-6, 9, 10.4, 14 and 16-19 apply to meetings of committees and sub-committees. The Rules applicable to meetings of the Cabinet are set out in the Executive Procedure Rules.

23.2 Rule 8 also applies to meetings of Committees and Sub-Committees except that the meeting of the Development Management Committee will commence at 7.00 pm.

## **24. PROGRAMME**

24.1 A programme of meetings of the Council's Committees shall be approved annually by the Council but the date of any meeting may be varied by the appropriate Council's Committee.

24.2 Meetings of other Committees or Sub-Committees shall be held at times determined by the respective Chairs.

## **25. SPECIAL MEETINGS**

25.1 The Chairman of a Committee may call a special meeting at any time.

25.2 On the written requisition signed by one half of the whole number of members of a Committee delivered to the Chief Executive a special meeting of the Standing Committee shall be called.

25.3 The summons to a special meeting shall set out the business to be transacted and no other business shall be considered at that meeting.

## **26. RIGHT TO ATTEND**

A member of the Council may attend any meeting of any Committee or sub-Committee of which he or she is not a member and may, with the permission of the Chairman of the meeting, speak but shall not move or second any motion or vote.

## **27. QUORUM**

The quorum of a meeting of a Committee appointed by the Council will be a third of the whole number of members. During any meeting, if the Chair/man counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

## **28. ORDER OF BUSINESS**

Order of business shall be as indicated in the agenda or otherwise as the Chairman shall prescribe.

## **29. PUBLIC PARTICIPATION**

29.1 An item will be included on the agenda for meetings of the Committees after the item on "Apologies for Absence" to allow members of the public to make statements or ask questions in accordance with the rules for public participation.

- 29.2 At a meeting of a Committee (except for planning applications at Development Management Committee) a member of the public may (if written notice has been given by 12 noon on the working day preceding the date of the meeting) make a statement or ask the Chairman a question provided that it is within the powers and functions of that Committee.
- 29.3 The maximum time allowed for the making of statements and the asking of questions is 15 minutes.
- 29.4 Every person is allowed a maximum of 2 minutes in which to make their statement or ask their question.
- 29.5 Every person must when invited to do so address their statement or question to the Chairman of the Committee.
- 29.6 Every statement or question answered must be answered without discussion and the Chairman may decline to answer.
- 29.7 Every person must maintain respect for the Chairman and the meeting.
- 29.8 Every person must after making a statement or asking a question take their seat to listen to the reply or if they wish join the public for the rest of the meeting or leave the meeting.
- 29.9 The Chairman may at his or her discretion disallow the making of a statement or the asking of questions if he or she is of the opinion that the proper dispatch of the business of the Committee may be impeded or that a breach of order may be occasioned.
- 29.10 The questioner may not ask the same or a similar question within a six month period except for the following circumstances:
- (a) Deferred planning applications which have foregone a significant or material change since originally being considered.
  - (b) Re-submitted planning applications which have foregone a significant or material change.
  - (c) Any issues which are re-submitted to Committee in view of further facts or information to be considered.

That matters with regard to (a) and (b) above be determined by the case officer in consultation with the Development Control Manager and Chairman. Matters with regard to (c) above, the case officer and relevant Chairman.

That in cases where there are more than 1 or 2 people wishing to speak on a planning application, the shared time be increased from 3 minutes to 5 minutes.

29.11 Development Management Committee

At a meeting of the Development Management Committee, a person or their representative may, if notice in writing, by telephone or in person has been given by 5pm the day before the meeting, speak on a particular planning application, provided that it is on the agenda to be considered at the meeting.

29.12 For each planning application, which is subject of consideration at the meeting, a maximum period of five minutes will be allocated for each of the following to address the meeting, on a 'first come first served' basis:

Town/Parish Council and Neighbourhood Associations  
Objectors to an application  
Supporters of the application

If an application is recommended for approval only objectors can invoke the above speaking rights.

29.13 If more than one person in any of the categories in 29.12 above wishes to speak they should agree with the other members of that category the order in which they should speak or alternatively they may if they so wish, agree that one member of a category will represent the views of the others. Where one person in a category wishes to speak that person will be allowed a maximum of three minutes. Where more than 1 person in a category wishes to speak, a total time of 5 minutes will be shared between the speakers in that category.

29.14 If a person wishes to speak on any other matter (other than a planning application) they must give notice and comply with the conditions in paragraph 29.2 above.

**30. MOTIONS AND AMENDMENTS**

30.1 Every motion shall be relevant to some matter within the Committee's terms of reference and shall arise upon a matter contained within the agenda. The Chairman may however at his or her discretion allow consideration of reports or motions which are within the Committee's terms of reference but not contained within the agenda, if by reason of special circumstances which shall be specified in the minutes, the matter is urgent.

30.2 Motions and amendments shall not be considered unless they are moved and seconded.

**31. SPEECHES**

All speeches shall be concise and relevant to the matter in hand.

**32. QUESTIONS**

32.1 Questions relating to matters on the agenda shall be asked when that matter is discussed.

32.2 Questions may be addressed to the Chairman or, through the Chairman, to an employee, who may answer orally, may undertake to provide a written reply within seven days or may decline to answer.

### **33. CONDUCT**

33.1 The Chairman shall control the conduct of the meeting and the decision of the Chairman on any point of order shall be final and shall not be questioned during the meeting.

33.2 Members may speak sitting and as often as the Chairman may consider reasonable and may move motions without notice.

33.3 Except as otherwise indicated in this paragraph, the rules of order of debate of the Council shall, as far as they are applicable, govern the proceedings of all Committees and Sub-Committees.

### **34. MISCONDUCT**

#### **34.1 Misconduct by Member**

If a member persistently disregards the ruling of the Chairman, behaves in a disorderly manner or wilfully obstructs the business of the meeting, the Chairman may require that the member be silent or that the member leave the meeting. If the member does not comply or otherwise persists in misconduct, the Chairman may order that the member be removed.

#### **34.2 Misconduct by Public**

If a member of the public interrupts the meeting or behaves in a disorderly manner the Chairman shall give a warning. If the warning is disregarded, the Chairman may order that the member of the public be removed and may adjourn or suspend the meeting for so long as seems fit.

#### **34.3 General Disturbance**

In the case of general disturbance by members of the public, the Chairman may order that all or part of the room be cleared and may order that members of the public be removed from all or any part of the building.

### **35. SUBSTITUTE MEMBERS**

- 35.1 Subject to paragraph 35.10, below, substitute members will where required be nominated by the relevant Leader or Deputy Leader of a political group for each Committee and Sub-Committee ,subject to the following rules:
- 35.2 The substitution of a member shall be effected by the service of an email notice upon the Assistant Director (Legal and Democratic Services) sent to [member.support@dacorum.gov.uk](mailto:member.support@dacorum.gov.uk) by the Leader or Deputy Leader of the appropriate political group.
- 35.3 The Leader or Deputy Leader of the political group of which the member to be substituted is a member must serve notice of the substitution on the Assistant Director (Legal and Democratic Services) as soon as possible, and in any event not less than 24 hours before the meeting in respect of which the substitution is proposed.
- 35.4 That a reason for the substitution of a member be included in the email and that the circumstances in which substitution may be permitted are Members' business commitments (including Council business) sickness, inescapable family commitments, religious or cultural reasons or reasons of disability.
- 35.5 The substitute member must be of the same political group as the member substituted and no substitute member may substitute for more than one ordinary member of a Committee or Sub-Committee at any one time.
- 35.6 In respect of the Development Management Committee, the Licensing and Health & Safety Enforcement Committee (including the appointed Licensing sub-committees), the Appeals and Reviews Committee and the Audit Committee, the substitute member must have attended appropriate training.
- 35.7 Notices of substitute membership served on the Assistant Director (Legal and Democratic Services) in accordance with this Standing Order shall be recorded in the minutes.
- 35.8 If a substitute member attends a Committee in accordance with the above rules he or she will be entitled to the full rights of membership including the right to speak and vote, subject to the rules relating to declaration of interests.
- 35.9 Once a member or substitute member has attended for part of a meeting he or she shall not be entitled to be replaced for any subsequent part of the same meeting.
- 35.10 These rules relating to substitute members shall not apply to the Standards Committee or any sub-committee of the Standards Committee.



**TABLES**

**Notices of Motion and questions by Members of the Council**

Set out in the table below is the day and time on which Notices of Motion must be delivered to the Chief Executive or the Assistant Director (Legal and Democratic Services)

Day of Meeting	Date on which notice must be delivered to Chief Executive or the Assistant Director (Legal and Democratic Services)	Latest time notice must be received by the Chief Executive or the Assistant Director (Legal and Democratic Services)
Monday and Tuesday	The 2nd Wednesday preceding the meeting	4.00 pm
Wednesday, Thursday and Friday	The 2nd Friday preceding the meeting	4.00 pm

**Questions by Members of the Public**

Set out in the table below is the day and time on which Questions must be delivered to the Chief Executive or the Assistant Director (Legal and Democratic Services)

<b>Day of Meeting</b>	<b>The date on which notice must be received by the Chief Executive or the Assistant Director (Legal and Democratic Services)</b>	<b>Latest time notice must be received by the Chief Executive or the Assistant Director (Legal and Democratic Services)</b>
Monday and Tuesday	The Wednesday preceding the meeting	4.00 pm
Wednesday, Thursday and Friday	The Friday preceding the meeting	4.00 pm



## **PART 4 ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, the Standards Committee and regulatory committees and public meetings of the Cabinet (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 give at least five clear days notice of any meeting by posting details of the meeting at the Council's main offices.

#### **4(a) NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE**

4(a)(1) At least 28 days before a private meeting of the Executive the proper officer will publish on the Council's website and make available at the Council's office a notice of the Executive's intention to hold a meeting in private. The notice must contain the reasons why the meeting is to be held in private.

4 (a)(2) At least 5 clear days before a private meeting the proper officer will publish on the Council's website and make available at the Council's office a further notice detailing the reasons for the meeting being held in private and details of any representations received about why the meeting should be open to the public and any response to those representations.

4 (a) (3) Where the date by which a meeting must be held makes compliance with 4 (a) (1) and/or 4 (a) (2) impracticable the meeting may only be held in private where agreement has been sought and obtained from the Chairman of the relevant Overview and Scrutiny Committee, or if there is no Chairman or they are unable to act, the Mayor or in his absence the Deputy Mayor.

4 (a) (4) Where agreement has been obtained under 4 (a) (3) a notice must be published on the Council's website and made available at the Council's office setting out the reasons for the urgency of the meeting.

### **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's main offices at least five clear days before the meeting. 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 designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

## **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item;

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10)

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

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.

A copy of these Rules will constitute the written summary.

## 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 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 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 would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 established a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 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 by Court Order.

### 10.4 Meaning of exempt information

- (a) Exempt information means information falling within the descriptions set out in the following paragraphs (subject to the qualifications mentioned at (b) (c) and (d) below):

Category	Condition
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).	"financial or business affairs" includes contemplated, as well as past or current activities.
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.	"employee" means a person employed under a contract of service  "labour relations matter" means:  (a) any of the matters specified in paragraphs (a) to (g) of sections 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act): or

	<p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>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</p> <p>"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.</p>
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	
Where a meeting of the Standards Committee, or a sub-committee of the Standards Committee is convened to consider a matter referred under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000 the following descriptions of exempt information are inserted -	
7A. Information which is subject to any obligation of confidentiality.	
7B. Information which relates in any way to matters concerning national security.	
7C. Information presented to the Standards Committee or a sub-committee of the Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.	

- (b) Information falling within the description in paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - (h) the Companies Act 1985;
  - (ii) the Friendly Societies Act 1974 and 1992;
  - (iii) the Industrial and Provident Societies Acts 1965 to 1978;
  - (iv) the Building Societies Act 1986\*; or
  - (v) the Charities Act 1993

"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 the Act)

- (c) Information falling within any of the above descriptions is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- (d) Information which:
  - (i) falls within any of the above descriptions; and
  - (ii) is not prevented from being exempt by virtue of (b) and (c) above;

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

- (a) Rules 13-22 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a decision in public then it must also comply with Rules 1-11.
- (b) If the Cabinet or its committees meet to discuss a key decision to be taken collectively within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (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 15 (general exception) and Rule 16 (special urgency) a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **14. THE FORWARD PLAN**

#### **14.1 Period of forward plan**

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second months covered in the preceding plan.

#### **14.2 Contents of forward plan**

- (a) The forward plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:
  - (i) the matter in respect of which a decision is to be made;
  - (ii) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
  - (iii) the date on which, or the period within which, the decision will be taken;
  - (iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

- (v) the means by which any such consultation is proposed to be undertaken;
  - (vi) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - (vii) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (b) The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:
- (i) that key decisions are to be taken on behalf of the Council;
  - (ii) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
  - (iii) that the plan will contain details of the key decisions to be made for the fourth month period following its publication;
  - (iv) that each plan will be available for inspection at reasonable hours free of charge at the Council's main offices;
  - (v) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
  - (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
  - (vii) that other documents may be submitted to decision takers;
  - (viii) the procedure for requesting details of documents (if any) as they become available; and
  - (ix) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.
- (c) Exempt information need not be included in a forward plan and confidential information cannot be included.



## **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the Chairman of the relevant Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council, and published notice on the Council's web-site; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

As soon as reasonably practicable after the proper officer has complied with a) and b) he/she must publish a notice on the Council's website stating why compliance with Rule 14 is impracticable.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the decision can be made by the decision taker if the Chairman of the relevant Overview and Scrutiny Committee agrees that the decision is urgent and cannot reasonably be deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

As soon as reasonably practicable after the decision taker has obtained agreement a notice must be published on the Council's web-site setting out the reasons for urgency and that it cannot reasonably be deferred.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or

- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the relevant Overview and Scrutiny Committee Chairman or the Mayor/Deputy Mayor of the Council under Rule 16;

the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the proper officer who shall require such a report on behalf of the Committee when so requested by the Mayor or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **17.2 Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 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 particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, the proper officer 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.

## **19. OFFICERS**

- (a) the Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.

- (b) A Cabinet meeting may only take place in the presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

## **20. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE OFFICERS UNDER DELEGATED POWERS**

### **20.1 Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

### **20.2 Provision of copies of reports to Overview and Scrutiny Committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman and Vice-Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **20.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or an officer, he/she will prepare, or instruct the proper officer to 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 Cabinet or officers. This does not require the disclosure of exempt or confidential information.

## **21. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **21.1 Rights to copies**

Subject to Rule 21.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet.

## **21.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 Material relating to previous business or business to be transacted**

22.1.2 Subject to paragraph 22.1.3 below, all members of the Council will be entitled to inspect any document which is in the possession or under the control of the Council or the Cabinet and contains material relating to any business to be transacted (or previously transacted) at a meeting of the Council, or a committee or sub-committee of the Council, or the Cabinet.

22.1.3 Members of the Council are not entitled to inspect any document if it appears to the proper officer that it discloses exempt information unless it is information of a description for the time being falling within:

- (a) paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract, or

- (b) paragraph 6.

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision.

### **22.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

## **PART 4 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

1. The Council is responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it is the responsibility of the Cabinet to implement it.
2. **The Process for Developing the Framework**
  - (a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of the Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 6 weeks.
  - (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
  - (c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
  - (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
  - (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
  - (f) The decision will be publicised in accordance with the Access to Information Rules and a copy shall be given to the Leader.
  - (g) An in-principle decision will automatically become effective at least 5 days from the date of the Council's decision, unless within that period the Leader informs the proper officer in writing that he/she objects to the decision becoming effective and provides reasons why.

- (h) In that case, the proper officer will call a Council meeting within a further 5 days. The Council will be required to re-consider its decision and the Leader's written submission within 10 days of being called. The Council may:
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with the Access to Information Rules, and shall be implemented immediately.
- (j) 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 Cabinet. Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, 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) unless both the Chairman and Vice Chairman of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman and Vice-Chairman of the relevant Overview and Scrutiny Committees' 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 Chairman and Vice-Chairman of a relevant Overview and Scrutiny Committee the decision be referred to a special meeting of the Council.

### **4. Virement**

- (a) The Council's rules concerning the transfer of budgets (virement) are set out in the Financial Regulations

## **5. In-Year Changes to Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements, discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes necessary to ensure compliance with the law, ministerial direction or statutory guidance.

## **6. Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Where an Overview and Scrutiny Committee is of the opinion that an 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 Assistant Director (Legal and Democratic Services) and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Assistant Director (Legal and Democratic Services) report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Assistant Director (Legal and Democratic Services) report and/or Chief Finance Officer's report and to prepare a report to Council in the event that the Assistant Director (Legal and Democratic Services) or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Assistant Director (Legal and Democratic Services) or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made, but not yet implemented, and the advice from the Assistant Director (Legal and Democratic Services) and/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. At the meeting the Council will receive a report of the decision or proposals and the advice of the Assistant Director (Legal and Democratic Services) and/or the Chief Finance Officer. The Council may either:
  - (i) 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

- (ii) amend the Council's Financial Regulations 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

- (iii) 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 Cabinet to reconsider the matter in accordance with the advice of either the Assistant Director (Legal and Democratic Services) Chief Finance Officer.

## **CABINET PROCEDURE RULES**

### **1. HOW DOES THE CABINET OPERATE?**

#### **1.1 Who may make executive decisions?**

The Leader decides how the Council's executive functions are to be exercised unless this Constitution directs otherwise.

Executive functions may be discharged by:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet (only Cabinet members can have voting rights on such a committee although other members can be co-opted with no voting rights);
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

#### **1.2 Delegation by the leader**

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (i) the allocation of the Cabinet Portfolios among the Cabinet members for insertion in Schedule 1 of this Constitution;
- (ii) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet 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 on that delegation and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of executive functions**

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to any joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **1.4 The Council's scheme of delegation and executive functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or Cabinet committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Cabinet committee, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

### **1.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

- (b) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member of the Cabinet 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 Code of Conduct for Members in Part 5 of this Constitution.

## **1.6 Cabinet meetings – when and where**

The Cabinet will meet at least 12 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

## **1.7 Meetings of the Cabinet**

Meetings of the Cabinet shall be open to the public (subject to the exclusion in circumstances defined in the Access to Information Rules in Part 4 of this Constitution).

## **1.8 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one quarter of the total number of members of the Cabinet (including the Leader), or 3 including the Leader, whichever is the larger.

## **1.9 How are decisions to be taken by the cabinet?**

- (a) Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2. HOW ARE CABINET MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then Cabinet Member appointed to do so by those present shall preside.

### **2.2 Who may attend?**

See Access to Information Rules in Part 4.

### **2.3 What business?**

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, 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.

### **2.5 Who can put items on the Cabinet agenda?**

- (a) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- (b) Any member of the Cabinet may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the proper officer will comply.

- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. However, there may only be up to 3 such items per Cabinet meeting.
- (e) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### **3. TIME AND DURATION OF MEETINGS**

All meetings of the Cabinet except meetings where the agenda states a different time, will commence at 7.30 pm.

### **4. VOTING**

#### **4.1 Majority**

Any matter shall be decided by a simple majority of those members voting and present in the room at the time the question is put.

#### **4.2 Chair's casting vote**

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

#### **4.3 Show of hands**

The Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **4.4 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.

#### **4.5 Right to require a vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **5. PUBLIC PARTICIPATION AT CABINET MEETINGS**

- 5.1 At a meeting of the Cabinet a member of the public may (if written notice has been given by 12 noon on the working day preceding the date of the meeting) make a statement or ask the Chairman a question provided that it is within the powers and functions of the Cabinet.
- 5.2 The maximum time allowed for the making of statements and the asking of questions is 15 minutes.
- 5.3 Every person is allowed a maximum of 2 minutes in which to make their statement or ask their question.
- 5.4 Every person must when invited to do so address their statement or question to the Chairman of the Cabinet.
- 5.5 Every statement or question answered must be answered without discussion and the Chairman may decline to answer.
- 5.6 Every person must maintain respect for the Chairman and the meeting.
- 5.7 Every person must after making a statement or asking a question take their seat to listen to the reply or if they wish join the public for the rest of the meeting or leave the meeting.
- 5.8 The Chairman may at his or her discretion disallow the making of a statement or the asking of questions if he or she is of the opinion that the proper dispatch of the business of the Committee may be impeded or that a breach of order may be occasioned.
- 5.9 The questioner may not ask the same or a similar question within a six month period except on any issues which are re-submitted to Cabinet in view of further facts or information to be considered.



## **6. DISTURBANCE BY PUBLIC**

### **6.1 Removal of a member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

### **6.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## **PART 4 OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES**

- (a) The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them annually. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- (b) The Council will have a minimum of three Overview and Scrutiny Committees, which will perform all overview and scrutiny functions on behalf of the Council. They will consist of at least 12 members of the Council on a politically proportional basis to be appointed at the Annual Meeting of Council. The Chairman and Vice-Chairman of each Committee will be appointed at the Annual Meeting of Council.
- (c) The Chairman and Vice-Chairmen of the Overview & Scrutiny Committees will be appointed from within the majority group and one of the three Vice-Chairmen will be appointed from outside the majority group.
- (d) The terms of reference of each Overview and Scrutiny Committee on matters within its scope will be:
  - (i) the performance of all overview and scrutiny functions on behalf of the Council;
  - (ii) to approve an annual overview and scrutiny work programme, so as to ensure that the committee's time is effectively and efficiently utilised;
  - (iii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of business or jeopardises the efficient running of Council business, at the request of the Cabinet to make decisions about the priority of referrals made.
  - (iv) to appoint informal member working groups or panels to assist the work of the Committee.

### **2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

All Councillors except the Mayor and Cabinet members may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### **3. CO-OPTEEES**

Each Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

#### **4. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

Each Overview and Scrutiny Committee shall have meetings programmed at least every 8 weeks. Additional Overview and Scrutiny Committee meetings may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 3 members of an Overview and Scrutiny Committee, 1 member of an Overview and Scrutiny Committee with the agreement of the Chairman or by the proper officer if he/she considers it necessary or appropriate.

#### **5. QUORUM**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

#### **6. CHAIRMAN**

The Chairman and Vice-Chairman of each Overview and Scrutiny Committee will be appointed at the Annual Meeting of Council.

#### **7. WORK PROGRAMME**

Each 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. The Chairman and Vice Chairman of all Overview and Scrutiny Committees will meet at least once a month to ensure that the work of the Committees is properly co-ordinated.

#### **8. Agenda Items**

- (a) Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the proper officer will ensure that it is included on the next available agenda.
- (b) The leader of any political party may, without the consent of the Chairman, on up to 3 occasions per Overview and Scrutiny Committee per year require the proper officer to include an item on the agenda of a relevant Overview and Scrutiny Committee for consideration. The proper officer shall inform the Chairman of the relevant Overview and Scrutiny Committee of the request at the earliest opportunity, and make arrangements for the matter to be included on the agenda at the next available meeting of that Overview and Scrutiny Committee.
- (c) Any 5 members of the Council may give written notice to the proper officer that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Committee. If the proper officer receives such a notification, then he/she will include the

item on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by the committee.

- (d) Any member of the Council may give written notice to the proper officer that they wish a local government matter to be included on the agenda of a relevant Overview and Scrutiny Committee of which he/she is not a member. If the proper officer receives such a notification, then he/she will include the matter on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by the Committee. In deciding how to deal with the matter the Committee may consider representations from the member who referred the matter, and take into account the extent to which the member has exercised any delegated functions which the Council or Leader may have given them. It is open to the Committee to decide not to exercise any of its powers in relation to the matter, but it must let the member know its decision and the reasons for it.
- (e) Where a member has referred a local government matter to an Overview and Scrutiny Committee, and the Committee makes a report or recommendation to the Council or the Cabinet in relation to the matter, it must provide a copy to the member.

“Local government matter” means any matter which relates to the discharge of any function of the Council and affects all or part of the member’s ward or any person who lives or works in the ward, with the exception of:

- a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006,
- issues relating to individuals concerning planning and licensing,
- issues which are vexatious, discriminatory or not reasonable to be included on the agenda, and

issues where there is already a right to a review or appeal (other than the right to complain to the Local Government Ombudsman).

- (f) Where an Overview and Scrutiny Committee makes a report or recommendations to the Council or the Cabinet –
- (i) it may publish the report or recommendation
- (ii) it must by notice in writing, require the Council or the Cabinet –
- to consider the report or recommendations,

- to respond to the Overview and Scrutiny Committee indicating what (if any) action the Council, or the Cabinet, proposes to take
  - if the Overview and Scrutiny Committee has published to report or recommendations, to publish the response,
  - if the Overview and Scrutiny Committee provided a copy of the report or recommendations to a member of the Council under (e) above, to provide the member with a copy of the response.
- (g) The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Cabinet, 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 Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of receiving it.

## **9. POLICY REVIEW AND DEVELOPMENT**

- (a) The role of the Overview and Scrutiny Committees 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

## **10. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES**

- (a) Once it has formed recommendations on proposals for development, an Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework). The Chairman, or in his/her absence, the Vice-Chairman of the relevant Overview and Scrutiny Committee will be responsible for presenting the report to the Cabinet or the Council as appropriate.
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

- (c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the proper officer.

**11. MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- (a) The agenda for Cabinet meetings shall include an item entitled 'Issues Arising From Overview and Scrutiny'. The reports of Overview and Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision making power to another individual member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to him/her for consideration. At the same time, the Overview and Scrutiny Committee shall serve a copy on the proper officer. The member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and the Leader. The member will also attend a future meeting of the Overview and Scrutiny Committee to present their response, if requested by the Committee.
- (c) Only one report every three months may be submitted by each Overview and Scrutiny Committee to the Cabinet.
- (d) Overview and Scrutiny Committees will in any event have access to the Cabinet's forward 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 following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

**12. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **13. MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, 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.

- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is 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.
- (c) 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 to take place within a maximum of 10 working days from the date of the original request.

### **14. ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 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 may invite such people to attend.

### **15. CALL-IN**

Call-in should only be used in exceptional circumstances. These are where Members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the Cabinet or Officer did not take the decision in accordance with the principles set out in Article 12 (Decision Making).



- (a) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, and shall be available at the main offices of the Council within 2 working days of being made. Chairmen and Vice Chairmen of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the proper officer responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless 5 members of the Council objects to it and calls it in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny if so requested by any 5 members of the Council. Any member who calls in a decision must give supporting reasons in writing which must fall within one or more of the 'Principles of Decision Making set out in paragraph 12.2 of Article 12. Such member may also submit in writing a proposed recommendation(s) for suggested actions or alternative actions for consideration by the relevant Overview and Scrutiny. The Proper Officer shall notify the decision-taker of the call-in. The called in decision will be referred to the next meeting of the Overview and Scrutiny Committee. In exceptional circumstances, the Proper Officer may, after consultation with the Chairman and Vice Chairman arrange an extraordinary meeting of the Committee to consider the called in decision.
- (d) 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. The decision maker shall then reconsider the decision within 4 weeks amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting.
- (f) If the matter was referred by an Overview and Scrutiny Committee to full Council and the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provisions below. However, if the Council does object, it has no power to overturn or change a Cabinet 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 or not to amend the decision before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a

whole or a committee of it, the decision will be reconsidered at its next meeting. Where the decision was made by an individual, the individual will reconsider within 4 weeks of the Council request.

- (g) If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

## **16. CALL-IN AND URGENCY**

16.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

16.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **17. THE PARTY WHIP**

17.1 The Party Whip is defined as:

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner"

17.2 The imposition of the party whip is regarded by the Council as incompatible with Overview and Scrutiny. The Party Whip should not therefore be imposed on any member of an Overview and Scrutiny Committee while engaged in the work of Overview and Scrutiny.

## **18. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

(a) Overview and Scrutiny 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 Cabinet to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (eg with a view to reviewing policy), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted 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.
- (c) Following any investigation or review, the Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **20. MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE**

- (a) Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the Committee conducting the review shall:
- (i) invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed
- or
- (ii) before submitting its findings to the Cabinet and/or Council for consideration, the report of the reviewing Overview and Scrutiny Committee shall be considered by the other Overview and Scrutiny Committee for comment. These comments shall be incorporated into the report which is then sent to that body for consideration.

## **TASK AND FINISH GROUPS PROCEDURE RULES**

### **1. PROGRAMMING PANEL**

- 1.1 The Programming Panel will comprise the three political Group Leaders or their representatives and will receive advice and support from appropriate officers.
- 1.2 The Panel will have the following functions:
  - 1.2.1 To co-ordinate requests for the setting up of Task and Finish Groups made by the Chairman or Vice-Chairmen of Overview and Scrutiny Committees, the Cabinet or individual Cabinet Members.
  - 1.2.2 To regulate the number and duration of the Task and Finish Groups to ensure that there is no duplication of work being carried out by these Groups.
  - 1.2.3 To appoint the membership and decide the terms of reference for each Task and Finish Group.
  - 1.2.4 To assist both Members and officers in the allocation and timetabling of matters for consideration. The Panel is to be regarded as an administrative tool to promote effective and efficient decision making and co-ordination of the work of the Task and Finish Groups.
- 1.3 The Panel will meet at least once every cycle of meetings and will elect its own Chairman.

### **2. THE APPOINTMENT AND ROLE OF TASK AND FINISH GROUPS**

- 2.1 Task and Finish Groups will be set up by the Programming Panel to carry out detailed work in relation to specific topics or issues. The Panel will decide what Task and Finish Groups are set up and what their terms of reference will be. All requests to the Panel for the setting up of a Task and Finish Group must be submitted to the Panel in the form of a standard pro forma.
- 2.2 Subject to these procedure rules, Members will be appointed to Task and Finish Groups by the Panel. The important consideration will be a Member's interest in the particular topic or issue, their interest as a Ward Member (if the issue is geographically based), and any particular personal knowledge, ability or expertise that may be valuable to the group.
- 2.3 Task and Finish Groups are informal bodies and shall have no decision making powers. There is no requirement to have formal agendas or minutes of meetings.

- 2.4 Meetings of Task and Finish Groups will, as far as possible, be Member led, and will not require advice or support from officers unless specifically requested.
- 2.5 All Task and Finish Groups set up at the request of an Overview and Scrutiny Committee shall –
  - 2.5.1 Consist of at least six members.
  - 2.5.2 Comply with the political balance rules in section 15 of the Local Government and Housing Act 1985.
  - 2.5.3 Elect their own Chairman.
- 2.6 Task and Finish Groups set up at the request of the Cabinet or an individual Cabinet Member do not have to comply with the political balance rules and may, if appropriate, consist entirely of Members from the same political Group.

## **PART 4 OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

#### **(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

#### **(b) Seeking support for appointment**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor will seek support for any person for any appointment with the Council.

### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

#### **(a) draw up a statement specifying:**

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

#### **(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and**

#### **(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.**

### **3. Appointment of Head of Paid Service**

- (a) The full Council will approve the appointment of the Head of Paid Service before the offer of appointment is made following the recommendation of such an appointment by the Appointments

Committee. The Appointments Committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

#### 4. **Appointment of Chief Officers and deputy Chief Officers**

- (a) The Appointments Committee will appoint Chief Officers and deputy Chief Officers. The Appointments Committee must include at least one member of the Cabinet.

#### 5. **Other appointments**

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### 6. **Disciplinary action**

- (a) The terms of reference of the Appointments Committee include the dismissal of, and taking disciplinary action against, a Chief Officer or deputy Chief Officer. Where the Chief Officer or the deputy Chief Officer is the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer full Council must approve the dismissal before notice of dismissal is given.
- (b) The Appointments Committee may suspend a Chief Officer or deputy Chief Officer for a period of up to two months on full pay for the purpose of investigating alleged misconduct, or the taking of disciplinary action, where the officer under investigation or the subject of the disciplinary action is the designated Head of Paid Service.
- (c) The Chief Executive, in consultation with the Chairman of the Appointments Committee, may suspend a Chief Officer or deputy Chief Officer, including the designated Chief Finance Officer or Monitoring Officer, for a period of up to two months on full pay for the purpose of investigating alleged misconduct, or the taking of disciplinary action.
- (d) No other disciplinary action may be taken in respect of the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer except in accordance with the procedure set out in the Schedule below and the Appointments Committee, together with any independent persons appointed to it by the Council, shall constitute "the Panel" as referred to in the Schedule.

- (e) The Appointments Committee together with two Independent Persons to be co-opted to the Committee shall approve any Special Severance Payments to the Head of Paid Service.

## 7. **Dismissal**

Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.



## **SCHEDULE**

### **Procedure to be followed in the event that disciplinary action is taken in respect of the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer**

*[inserted under regulation 6 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015]*

1. In the following paragraphs –
  - (a) “the 2011 Act” means the Localism Act 2011;
  - (b) “the chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
  - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officers” means the chief finance officer, head of authority’s paid service or monitoring officer, as the case may be.
2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order –
  - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Where the Panel proposes dismissal, the Monitoring Officer shall notify every Member of the Cabinet of the name and any particulars relevant to the dismissal. The Leader of the Council shall notify the Monitoring Officer within 5 working days if the Cabinet object to the dismissal with reasons. The objection shall then be referred to the Panel for further consideration.
9. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular –
  - (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to the independent person in respect of that person's role as independent person under the 2011 Act".

Author & Responsible Officer	Mark Brookes, Assistant Director, Legal and Democratic Services
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Table of Amendments

Date of Change	Paragraph Amended	Explanation of amendments	Authority
21/07/23	17.3	To clarify that minutes shall record decisions only and the debate will be video recorded which shall stand as the record of debate.	Council 12/07/23
08/04/24	Various	Changes to reflect the restructures in the Housing and Property Team	Council July 2024



## DACORUM BOROUGH COUNCIL CODE OF CONDUCT FOR COUNCILLORS

**Adopted by full Council February 2022**

### **Introductory statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. 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

- a) is a member of any committee or sub-committee of the authority, or;
- b) 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”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## 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 Council encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), as set out in Appendix A also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's

requirements and in the public interest.

## **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
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

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.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I 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 the public. 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 local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Code of Conduct for Councillors, and local authority employees, where concerns should be raised in line with the local authority's protocol for member/officer relation.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as 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.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 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.

## **3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do 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 (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can 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, you 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.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

### **5. Disrepute**

**As a councillor:**

#### **5.1 I do not bring my 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 you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.



You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. 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 I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use

## **8. Training and Complying with the Code of Conduct:**

**As a councillor:**

- 8.1 I undertake all mandatory training as specified in the Member Development Programme unless a specific dispensation for the training has been granted by the Monitoring Officer**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is important for you as a councillor to be up to date with various areas of law, guidance and best practice relevant to your role as a councillor. There is a Mandatory Development Programme, which is agreed by Cabinet and kept under review by the Member Development Steering Group that sets out the mandatory courses that all councillors must attend. Additionally a number of non-mandatory, but recommended courses are also run throughout the year which councillors are encouraged to attend.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you 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 your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a councillor:**

#### **9.1 I register and disclose my interests.**

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 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.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

**10.1 I do 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 on my part 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.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, 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. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **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 Registering interests

### Members' Interests

#### 11. Disclosable Pecuniary Interests

You have a disclosable pecuniary interest in any business of the authority if it is of a description set out in Table 1 and is either-

- (a) an interest of yours, or
- (b) an interest of-
  - (i) your spouse or civil partner,
  - (ii) a person with whom you are living with as husband and wife, or (iii) a person with whom you are living with as if you were civil partners, and you are aware that that other person has the interest.

#### 12. Other Personal Interests

- (1) You have a personal interest in any business of the authority where either:
  - (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management;
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
  - (iv) any person or body who employs or has appointed you; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater

extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

- (2) In sub-paragraph (1)(b), a relevant person is a member of your family or any person with whom you have a close association.

### **13. Disclosure of Personal Interests**

- (1) Where you have a **personal interest** under paragraph 12 in any business of the authority and you attend a meeting of the authority at which the business is to be considered, you must disclose to that meeting the existence and nature of that interest before the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business which relates to or is likely to affect a body described in paragraph 12(1)(a)(i) – i.e. a body to which you have been appointed as the authority’s nominee – or 12(1)(a)(ii)(aa) – i.e. a body exercising functions of a public nature of which you are a member or in a position of general control or management - you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 12(1)(a)(iii) – i.e. where you have received a gift or hospitality from a person worth at least £50 – you need not disclose the nature and existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 19, sensitive information relating to it is not registered in the authority’s Register of Members’ Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 16(c), where you have a personal interest in any business of the authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **14. Prejudicial Interests Generally**

- (1) Subject to sub-paragraph (2), where you have a **personal interest** under paragraph 12 in any business of the authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business -
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 12;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12; or
  - (c) relates to the functions of the authority in respect of -
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **15. Prejudicial interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a subcommittee of such a committee) where -

- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint subcommittee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **16. Effect of prejudicial interests on participation**

Where you have a prejudicial interest in any business of the authority under paragraph 12 which is to be considered at a meeting (including a meeting of an overview and scrutiny committee) at which you are

present--

- (a) you must, unless paragraph 13(5) applies (sensitive information) disclose the existence and nature of the interest in accordance with paragraph 13(1)

and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded;

- (b) you must not, unless you have obtained dispensation from the monitoring officer, participate in any discussion or voting on the matter, except that you may still make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose;
- (c) you must not exercise executive functions in relation to that business; and
- (d) you must not seek improperly to influence a decision about that business.

## **17. Effect of Disclosable Pecuniary Interests on Participation**

- (1) If present at a meeting and you are aware that you have a **disclosable pecuniary interest** under paragraph 11 in any matter to be considered, or being considered at the meeting, you must not, unless you have obtained dispensation from the monitoring officer-

- (a) participate, or participate further, in any discussion of the matter at the meeting, or

- (b) participate in any vote, or further vote, taken on the matter at the meeting,

and, you must move to the public seating area until that business has been concluded,

- (c) you must not exercise executive functions in relation to that business; and

- (d) you must not seek improperly to influence a decision about that business

- (2) If a function of the authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

## **Part 3**

### **Registration of Members' Interests**



## 18. Registration of members' interests

(1) Subject to paragraph 19, you must, within 28 days of -

- (a) this Code being adopted by the authority; or
- (b) your election or appointment to office (where that is later),

register in the authority's Register of Members' Interests (maintained by the monitoring officer under Section 29(1)) of the Act details of any-

- (i) **disclosable pecuniary interests** as referred to in paragraph 11 that you may have, or your spouse, civil partner or person with whom you live as if they were your spouse or civil partner may have in so far as you are aware of their interests at that time
- (ii) other **personal interests** that you may have where they fall within a category mentioned in paragraph 12(1)(a)

by providing written notification to the authority's monitoring officer.

(2) Subject to paragraph 19, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or other personal interest or change to any existing disclosable pecuniary interest or other personal interest registered under paragraph (1), register details of that new interest or change by providing written notification to the authority's monitoring officer.

## 19. Sensitive information

- (1) Where you and the authority's monitoring officer both consider that the information relating to any of your interests (whether or not a disclosable pecuniary interest) is sensitive information then copies of the register that are made available for inspection, and any published version should not include details of the interest but may state that you have an interest details of which are withheld under Section 32(2) of the Act and/or this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that details excluded under paragraph (1) are no longer sensitive information, notify the authority's monitoring officer asking that the details be included in the authority's Register of Members' Interests.
- (3) In this Code, "sensitive information" means information which if disclosed or made available for inspection by the public could lead you, or a person connected with you, to being subject to violence or intimidation.

Table 1

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation carried on for profit or gain.	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where (a)—that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (b)

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

“**the Act**” means the Localism Act 2011;

“**body in which the relevant person has a beneficial interest**” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“**director**” includes a member of the committee of management of an industrial and provident society;

“**land**” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“**M**” means a member of a relevant authority;

“**member**” includes a co-opted member;

“**relevant authority**” means the authority of which M is a member;

“**relevant period**” means the period of 12 months ending with the day on which M gives a notification to the monitoring officer of their disclosable pecuniary interests, either– following their election or co-option for the purposes of section 30(1) of the Act, or

following a disclosure of a disclosable pecuniary interest which has not already been registered, or is not in the process of being registered, for the purposes of section 31(7) of the Act;

“**relevant person**” means M, or

M’s spouse or civil partner, or  
a person with whom M is living as husband and wife, or as if they were civil partners;

“**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.



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## **EMPLOYEE CODE OF CONDUCT**

**April 2023**

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## 1.0 Introduction

1.1 It is desirable for the protection of the public and the protection of employees that guidance be given to local government employees as to the conduct expected of them. This Code provides guidance to assist councils and their employees in their day to-day work and sets out the minimum standards of behaviour expected.

1.2 The aim of the Code is to set guidelines for Council employees which will help maintain and improve standards and protect employees from criticism or misunderstanding.

## 2.0 Framework for the Code

2.1 The public is entitled to expect the highest standards of conduct from all employees who work for Dacorum Borough Council (the Council) and this Code has been developed in line with best practice, existing legislation and the following guidance.

2.2 The provisions of this Code apply to all staff employed by the Council in the performance of their duties on a day-to-day basis including any additional offices to which they may be appointed in their capacity as a district council employee.

### 2.3 National Agreement on Pay and Conditions of Service (the National Agreement)

2.3.1 The basic principle is stated in Part 2 paragraph 2, Key National Provisions of the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service (the National Agreement):

- **Official Conduct**

- Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained; and*

- Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.*

2.3.2 Similar provisions are incorporated in the National Conditions of Service of Chief Officers.

### 2.4 Seven Principles of Public Life

2.4.1 This Code builds on, and is in keeping with, the seven principles of public life articulated by the Nolan Committee on Standards in Public Life (established in October 1994) which emphasises that those in public life should:

- **Selflessness** take decisions based solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families, or their friends.

- **Integrity** not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity** in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** promote and support these principles by leadership and example.

### **3.0 Standards of Behaviour, Impartiality and Conflicts of Interest**

- 3.1 Council employees are expected to conduct themselves with integrity and honesty in carrying out their duties and must provide the highest possible standard of service to the public.
- 3.2 Where it is part of their duties to provide appropriate advice to councillors and fellow employees this must be done with impartiality at all times.
- 3.3 Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service (see paragraph 15.1. *Whistleblowing*).
- 3.4 Responsibility is placed on every member of staff for disclosing to an appropriate manager or officer of the Council every potential conflict of interest in which he/she may be involved.
- 3.5 In general employees' private interests must not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. This includes standards of behaviour outside the working environment and in the use of social media in relation to elected members, fellow officers and the general public.

- 3.6 Employees should not misuse their official position or information acquired in their official duties to further their private interest or those of others.
- 3.7 Employees must report to the appropriate manager any impropriety or breach of the terms of this Code.
- 3.8 Employees should have regard to the Council's Corporate Priorities and Corporate Plan when undertaking their duties and should make their line manager aware of any circumstances where these aims and objectives might not be able to be followed.

#### **4.0 Disclosure of Information**

- 4.1 The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself may also decide to be open about other types of information.
- 4.2 The Council will therefore make clear to employees:
- the types of information which must be made available, and to whom;
  - the types of information which the Council has voluntarily made open, and to whom;
  - the types of information which the Council does not wish to be disclosed without specific permission.
- 4.3 The law also requires that personal information held about individuals must be treated in accordance with Data Protection legislation. Employees must ensure that they process data lawfully in accordance with the data protection principles. The Freedom of Information Act 2000 also gives a right of access to information held by public authorities in accordance with the provisions of the authority's publication scheme.
- 4.4 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 4.5 Any particular information received by an employee from a councillor which is personal to the councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by law.

#### **5.0 Political Neutrality**

- 5.1 Employees serve the Council as a whole. They must serve all councillors and not just those of a particular group and must ensure that the individual rights of all councillors are respected.

- 5.2 Employees may be required to advise political groups, but before providing such advice they should seek the approval of the relevant Strategic Director. In the provision of such advice employees should not compromise their political neutrality. Any advice given should be available to all political groups, if requested. An exception to this is the political supports officers who are specifically appointed to assist the political parties and are not required to share any advice given to any other political group.
- 5.3 Certain employees have roles which prevent them from undertaking certain political activities, such as canvassing for a political party or seeking election as a councillor (at a council other than Dacorum Borough Council) or other political office. These roles are commonly referred to as politically restricted posts. Please check your job description/employment contract to discover if you are in such a post.
- 5.4 All employees whether or not politically restricted must follow all lawful policies of the Council and must not let their own personal or political opinions interfere with their work.

## **6.0 Potential Conflict of Interest Situations**

- 6.1 Employees are expected to conduct themselves with integrity, impartiality and honesty and their private interests should not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute.
- 6.2 In particular attention is drawn to the following examples of situations where potential conflicts of interest can occur.

### **6.2.1 Relationships with Councillors**

Employees are responsible to the Council and for giving accurate and timely advice to councillors when required. Mutual respect between employees and councillors is therefore essential to good local government.

Close personal familiarity between employees and individual councillors can damage this relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

Employees should deal with councillors in a polite, professional and efficient manner.

Whilst it is permitted for an employee to speak to their local ward councillor about any issue affecting them in their private capacity as a local resident, they should not approach nor attempt to influence councillors in relation to anything that relates to their position as an employee, or for their own, or a relative or friend's, personal gain/or detriment and should immediately report to an appropriate manager if a councillor attempts to pressurise them to deal with a matter outside of Council procedure or policy.

Further guidance on the conduct expected between officers and councillors is set out in the Protocol for Member/Officer Relations.



### 6.2.2 Contact with the Local Community and Service Users

The community and service users have a right to expect a high standard of service from the Council.

Employees have a responsibility to the community they serve and should ensure courteous, professional, effective and impartial service delivery to all groups and individuals within the community.

Employees should be positive, constructive and inclusive in their interactions with members of the community.

Where necessary, officers should make appropriate arrangements to communicate with people with disabilities in accordance with Council policies and should seek advice and guidance from the Council's Diversity and Community inclusion Officer where appropriate.

### 6.2.3 Relationships with Contractors, Planning Applicants and those applying for Council Grant

All relationships with external contractors, or potential contractors, or applicants for planning consents, grants or licences must be made known to the appropriate manager. This is particularly important if you are the employee who would normally deal with the matter in question. If that is the case you must declare your interest to your manager and the Council's Monitoring Officer and you must not have any involvement in making any decision relating to the matter.

Similarly, any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager.

Orders and contracts, grants and planning decisions must be decided on merit and no special favour should be shown in the tendering process to any businesses, or potential suppliers, particularly those run by, for example, friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship').

Employees who deal with, procure, engage or supervise contractors and consultants or process or determine applications under delegated powers with whom they have previously had, or currently have, a relationship in a private or domestic capacity, must declare that relationship to the appropriate manager and must not have any further dealings with the matter.

Employees must not accept money or any other reward from anyone who may benefit from work or funding provided by the Council. To do so would, in law, be corrupt.

## **7.0 Bribery, Corruption and Fraud**

7.1 Under the Bribery Act 2010 it is a serious criminal offence to

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly.
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly.
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

## 7.2 Use of Financial Resources

7.2.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

## **8. GIFTS AND HOSPITALITY**

8.1 It would be inappropriate to foster an atmosphere in which Council employees refused all invitations for social involvement with persons or bodies who may have had, or may seek to have in the future, business dealings with the Council. Contacts established on a social basis can be helpful and in the Council's interests. At the same time it is very easy for such involvement to be misconstrued as providing an opportunity to bring about undue influence. All employees should seek the advice of their Strategic Director or the Monitoring Officer if in any doubt about the right course of action to pursue in such cases.

8.2 The general problem of gifts and hospitality is that very often a careful exercise of judgement may be necessary to decide how the public interest, and the Council's good name, may best be served. Some flexibility is necessary therefore, as extreme strictness can give unnecessary offence to people and organisations with whom the Council's relationships should be cordial. However, an appearance of improper influence is easily created, and with it encouragement of suspicion about the motives of those who serve in local government. The general rule must be "when in doubt, opt out".

8.3 The following guidelines are set out to help employees to avoid the risk of putting themselves in a position which could damage their own position and the public confidence in the Council and are intended to be of assistance to everyone in this delicate area:

8.4 Gifts:

The following paragraphs are particularly directed to gifts from organisations or persons who are, or who seek to provide work, goods or services to the Council, e.g. building contractors, suppliers of goods or equipment and firms

able to provide professional or commercial services to the Council. Apart from the items listed below, the employee must refuse any personal gifts offered to him or her or to a member of his or her family, by any persons or body who has or seeks dealings with the Council.

**8.4.1** The following are acceptable:

8.4.1.1 A modest gift or gifts of a promotional character given to a wide range of people and not uniquely to you. These gifts are usually given at Christmas time and include calendars, diaries, desk sets, flow charts, and other articles of use in the office or job. In no circumstances should a promotional gift or gifts of this nature worth more than £25 (or £25 in total when the value of gifts from one source are aggregated together) be deemed acceptable.

8.4.1.2 Gifts on the conclusion of any courtesy visit to a factory or firm or other community or other organisation of a sort normally given by that firm or organisation

8.4.2 Obviously, it is wise to err on the side of caution as an obviously expensive gift could raise a question even if it otherwise falls within one of the above categories. If in doubt, you should seek the advice of your Strategic Director or the Monitoring Officer.

8.4.3 When a gift has to be refused, this should be done with tact, because the offering of gifts is common practice in the commercial world. In some cases a gift is simply delivered and there may be a problem of returning it, e.g. a turkey received at Christmas. However, unless they are listed in the acceptable items given above, the above guidelines should be followed. It is sometimes acceptable to the giver for the gift to be the subject of a raffle and the proceeds placed to a charitable fund. However, an arrangement of this sort should only be made with a Strategic Director or Monitoring Officer's approval and recorded in writing.

**8.5 Hospitality:**

Hospitality is sometimes offered to representatives of the Council and is accepted at official level, where it is reasonable in all the circumstances. Where it is offered to employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision on their services or supply of goods. It is important to avoid any suggestion of improper influence. The question is one of judgement, and the following examples are intended to give general guidance.

**8.5.1 ACCEPTABLE**

8.5.1.1 A functional working lunch or dinner provided at reasonable cost to allow the parties to discuss business.

Such lunches or dinners should not be held in extravagant or luxurious surroundings.

- 8.5.1.2 Invitation to a Society or Institute dinner or function.
- 8.5.1.3 Invitation to participate in Company sporting fixture or attendance as part of a group at an event.
- 8.5.1.4 Invitations to attend award ceremonies, opening ceremonies, celebrations of major commercial or community events.
- 8.5.1.5 Invitations to attend work or profession based conferences at nil or reduced cost.

## **8.5.2 UNACCEPTABLE**

- 8.5.2.1 Holiday abroad or weekend in any holiday centre.
- 8.5.2.2 Offer of hotel and tickets for theatre.
- 8.5.2.3 Use of company flat or hotel suite.

**8.5.3** In general terms it will often be more acceptable to join in hospitality offered to a group rather than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, e.g. litigation arising from a contract, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be in the acceptable list. Any offer of hospitality which does not readily come under the headings above, should be discussed with your Strategic Director or the Monitoring Officer before being accepted.

## **8.6 Registration of Gifts and Hospitality**

Any offer of a gift or of hospitality, whether or not it is accepted must be declared to your manager. Any offer of a gift or hospitality worth more than £25.00 which is accepted must be recorded in a register maintained for the purpose by the Monitoring Officer using the form at Appendix 2.

## **8.7 Sponsorship - Giving and Receiving**

8.7.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

8.7.2 Where the Council wishes to sponsor an event or service neither an employee nor any friends, partners or persons where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship') must benefit from such sponsorship in a direct way without there being full disclosure to your Strategic Director and the Monitoring Officer of any such interest.

8.7.3 Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **9.0 Appointments and Other Employment Matters**

9.1 Employees involved in appointments should at all times act in accordance with the Council's Recruitment and Selection Policy Statement.

9.2 The Recruitment and Selection Policy Statement part 3 states:

Applicants who are related to an employee of the Council must not be treated more favourably than any other applicant.

Employees must not be involved in the permanent, temporary or casual appointment of any of their relatives to a post in the Council. This includes shortlisting, interviewing, decision making and negotiating salary. Where a person applies for a vacancy in the same Service Group as one of their relatives, measures must be taken by the manager to exclude that relative from the entire recruitment process and to ensure that, if appointed, the new employee is not directly line managed by their relative.

9.3 Similarly, employees should not be involved in decisions in relation to discipline, performance, promotion or pay adjustments for any other employee who is a friend, a person to whom the employee owes (or is owed) an obligation, partner or person where a family relationship is deemed to exist (see Appendix 1 for a definition of 'family relationship').

9.4 Employees who are related to each other or have developed a personal relationship with any other member of staff, or Councillor within the Council, are required to declare this at the earliest opportunity to the Strategic Director, and Assistant Director, People.

## **10.0 Outside Commitments**

10.1 An employee must not subordinate his/her duty to the Council to his/her private interests or put himself/herself in a position where duty and private interests conflict.

10.2 The Council will not attempt to preclude officers from undertaking additional employment outside their hours of duty with the Council, as long as any such employment does not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

Examples of unacceptable practices would include:

- architect, planner or other technical officer drawing plans for a third party for applications for planning consent by his/her own Council;
- any lawyer acting for client purchasing his/her house from the Council
- carpenter replacing door in a Council house in own time and at tenant's expense.

10.3 Therefore, where an officer wishes to engage in other business or take up additional appointment/s he/she must seek the permission of their Strategic Director and act at all times in accordance any contractual obligations in this respect.

10.4 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

10.5 Employees should be aware of their responsibilities under the Working Time Regulations.

#### **11.0 Personal and Financial Interests**

11.1 Employees must complete the Register of Interest Form at Appendix 3 within 28 days of the commencement of their employment and update the register within 28 days of becoming aware of any change to your interests.

11.2 Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest.

11.3 In addition to completing the Register of Interest Form employees must declare to their Strategic Director any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- membership of an organisation receiving grant aid from the Council
- membership of an organisation or pressure group which may seek to influence the Council's policies
- membership of an organisation which may seek to influence the performance of an employee in carrying out their duties
- having a beneficial interest in land which is within the Council's district and is subject to any planning application.

11.4 Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to their line manager.

11.5 The Council recognises and respects the right of all employees to become members of organisations. It only requires that employees declare personal and financial interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation.

## **12.0 Equality Issues**

12.1 All members of the local community, customers and employees have a right to be treated with fairness and equality.

12.2 In this regard employees must:

- be made aware of their obligations under equality law (see Appendix 1, paragraph 4);
- co-operate with the Council in the application of any policies agreed by the Council relating to equality issues;
- not take discriminatory action or decisions or encourage or put pressure on fellow employees to take discriminatory action or decisions;
- report any concerns about discriminatory conduct to their line manager or other appropriate employee, such as Head of Service, Strategic Director or the Monitoring Officer.

## **13.0 Information Security**

13.1 The Council maintains an Information Security Policy, in line with industry standards and recognised good practice, to support the confidentiality, integrity and availability of its information assets which are held electronically. As well as working to best practice standards, the Authority commits to deploying suitable hardware and software facilities to ensure that the data held by the Council is maintained in a secure environment. The Policy is also intended to ensure compliance with relevant legislation.

13.2 The purpose of the Policy is to ensure the effective maintenance and delivery of IT facilities, to protect the information that we hold and to meet relevant regulatory and legal obligations. It applies to all users of the Council's IT facilities and associated hardware/software and data processed by these systems.

### **13.3 Mobile telephone and smartphone usage**

13.3.1 Mobile telephones may be used for private purposes during working hours, if kept on silent or vibrating alert. Such use must be reasonable and kept to a minimum e.g. in the case of an emergency, and should no way interfere with your work.

### **13.4 Social Media**

- 13.4.1 The Council maintains a Corporate Information Technology Security Policy and Social Media Policy and employees shall act in accordance with those policies.
- 13.4.2 As an employee you should be aware that your personal use of social media – such as Facebook, Twitter, LinkedIn – should never breach any of our policies. For example employees should not use social media – either during or outside of working hours – in a manner that would breach:
- the Conduct policy
  - the Bullying and Harassment policy
  - the Corporate Information Technology Security Policy
  - any obligations you may have relating to confidentiality
  - criticise or offend the Council, its members, customers or other associates
- 13.4.3 Employees must ensure that they update any social media accounts with their latest employment details once they leave the Council.
- 13.4.4 Misuse of the Internet/Intranet/Social media may result in action under the any of the above policies, and could result in dismissal.

#### **14.0 Criminal Offences**

- 14.1 You must inform your line manager if you are being investigated, charged or have been convicted of any criminal offence during your employment. In the case of motoring offences these will be relevant if it is necessary to drive as part of your role. The line manager must inform HR immediately if they become aware that their employee is being investigated, charged or has been convicted of any criminal offence. Any breach of this requirement could result in summary dismissal for gross misconduct or other action under the Council's Disciplinary Policy.
- 14.2 It is your responsibility to immediately inform the Council if events occur which would change or add to the information included in a DBS or Disclosure Scotland check or to your original declaration under the Rehabilitation of Offenders Act 1974. Any breach of this requirement could result in action under the Council's Disciplinary Policy which could include dismissal. For further details please refer to the Council's Enhanced Vetting and Barring Policy on the intranet.

#### **15.0 Whistleblowing**

- 15.1 If an employee becomes aware of activities which he/she believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, through the Council's confidential reporting procedure, or any other procedure designed for this purpose. The Council's Whistleblowing Policy is available on Sharepoint [Anti Fraud - Policies - Whistleblowing Policy adopted 110707.doc \(sharepoint.com\)](#).

#### **16.0 Breaches of the Code of Conduct**



16.1 Any breach by an employee of any part of the Code of Conduct or its supporting policies and guidance may render the employee liable to disciplinary proceedings. It should be noted that a breach of the Code, and its supporting policies and guidance, will be subject to the provisions of the Council's disciplinary or other related procedures.

## **Appendix 1**

### **LEGAL AND OTHER PROVISIONS RELATING TO THE CODE OF CONDUCT**

#### **1. Disclosure of Information (Section 4.0)**

Data Protection Act 2018 and General Data Protection Regulation.

Freedom of Information Act 2000.

Local Government Act 1972 as amended (Access to meetings and documents.) Obligations of Discovery in connection with litigation.

#### **2. Potential and/or Perceived Conflict of Interest Situations (Section 6.2.3)**

Persons who owe you an obligation, or to whom you owe an obligation – this might include a debtor, creditor, fellow member of an organisation.

Very close personal relationships may also create a conflict, e.g. a good friend.

Family Relationship

Stage 2 - Composition of Panels paragraph entitled Canvassing on page D:50 of the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures) states that a relevant family relationship is deemed to exist between a Council officer and/or member and the person (i.e. the contractor, potential contractor, partner in a business etc.) if they are husband or wife, or partner (civil or otherwise), or if the person is the:

- parent
- son or daughter
- brother or sister
- uncle or aunt
- nephew or niece
- grandparent
- grandson or granddaughter
- foster child or foster parent
- dependent of the Council officer or member, or of the spouse or partner (whether civil or

#### **3. Bribery**

Bribery Act 2010, it is a criminal offence to request, agree, or accept a financial or other advantage intending that you will exercise your role as an officer improperly, or get another officer, or councillor to exercise their role or perform their duties improperly. It does not matter if you do not directly receive or accept the advantage.

**4. Appointments and Other Employment Matters (Section 9.0)** Section 7 Local Government and Housing Act 1989 Requires all officers to be appointed on merit

#### **5. Equality Issues (Section 12.0)**

Legislation

- Equalities Act 2010
- Human Rights Act 1998

## **KEY TERMS USED IN THE CODE OF CONDUCT**

### **□ Employee/s or Member/s of Staff**

The terms employee/s or member/s of staff should be taken to mean any individual/s employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Code also applies to seasonal and casual staff, agency workers and volunteers while they are engaged in carrying out duties for the council.

## Appendix 2

### Dacorum Borough Council's Code of Conduct for Employees

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Notification by an Employee of Receipt of Gift or Hospitality over the value of £25.00

I, *(full name)*

an employee of Dacorum Borough Council

GIVE NOTICE that I have received the following [gift(s)] [hospitality] *(delete whichever does not apply)* over the value of £25.00

(a) Date(s) of receipt of [gift(s)] [hospitality]

(b) Name(s) and address(es) of donor(s)

(c) Nature of gift(s) and/or hospitality

Date

Signed

NOTE – This notification must be given by an employee to the Monitoring Officer upon receipt of any gift or hospitality over the value of £25.00.

## Appendix 3

### DACORUM BOROUGH COUNCIL

### EMPLOYEE REGISTER OF INTERESTS

Name:

Job Title:

Service:

---

I have the following interests under the headings set out below which I am required to register under the Council's Employee Code of Conduct.

*(please put "None" where you do not have an interest under a particular heading):*

#### **Financial Interests**

1. Any land in the Borough of Dacorum in which you own, rent or occupy including your residential address.

*(please provide a description sufficient to identify the location).*

2. Any employment, office, trade, profession or vocation carried on by you for profit or gain outside of your contracted working hours at Dacorum Borough Council.

3. Any contract for goods, services or works which is made between you or a Relevant Person\* and Dacorum Borough Council which has not been fully discharged.

*(please give sufficient details to identify the contract)*

4. The name of any body, or company, in which you have a beneficial interest in securities, (stocks, bonds, shares, exchange traded funds), which has a place of business or owns land in the Borough of Dacorum.

## **Other Personal Interests**

1. Your membership of, or the fact that you are in a position of general control or management of, any body :-
  - (a) to which you have been appointed or nominated by Dacorum Borough Council;
  - (b) which is in receipt of grant aid from the Council
  - (c) which may seek to influence Council policies
  - (d) which may seek to influence the performance of an employee in carrying out their duties
  - (e) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
  
2. Please state if you have a Relevant Person\* relationship to any other employee, or Councillor, of the Council.

**You must, within 28 days of becoming aware of any change to this Interest Form, update this form.**

*\*Relevant Person in this Register of Interest Form means:  
Either a person who is a family member defined as:*

- *husband or wife, or partner (civil or otherwise),*
- *parent*
- *son or daughter*
- *brother or sister*
- *uncle or aunt*
- *nephew or niece*
- *grandparent*
- *grandson or granddaughter*
- *foster child or foster parent*
- *dependent (whether civil or otherwise)*
- *Mother in law, father in law, brother in law, sister in law*

*or any other person with whom you have a close personal or business relationship, e.g. close friend or business partner.*

## **PART 5: CODES AND PROTOCOLS**

### **PROTOCOL FOR MEMBER/OFFICER RELATIONS (Adopted by Council on 15<sup>th</sup> November 2017)**

#### **1. INTRODUCTION**

- 1.1 Dacorum Borough Council is determined to provide excellent local government for the people of Dacorum. It has produced this Protocol for Member/Officer relations in order to promote and maintain the highest standards of conduct in public life and harmonious working relationships. This Protocol applies to Members and Officers within Dacorum Borough Council. It does not apply to the Town and Parish Councils within Dacorum, although they may of course choose to adopt their own protocols.
- 1.2 Partnership, based on mutual trust and respect between Members and paid Officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all of the role and obligations of Members and the separate role and duties of Officers. This Protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in this Protocol are binding and apply equally to elected Members, co-opted Members and to Officers.
- 1.3 This protocol is based upon legislation, Council policies and documents deriving from a variety of sources, including:
- The Local Government Act 2000
  - Local Government and Public Involvement in Health Act 2007
  - Localism Act 2011
  - The Council's Constitution
  - The Code of Conduct for Members
  - The Code of Conduct for Employees
  - Guidance from the Department of Communities and Local Government
- 1.4 This Protocol is designed to supplement and offer local interpretation of these documents. This Protocol refers extensively to Members' relationships with Officers and other employees directly in the service of the Council. The principles of this Protocol also apply to Members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the Council (such as consultants employed on a longer-term basis by the Council).
- 1.5 The principles underlying this Protocol are as follows:
- 1.5.1 There shall be mutual courtesy and respect between Members and Officers with regard to their respective roles.
- 1.5.2 Members and Officers shall each carry out their respective duties in the best interests of the Council.

- 1.5.3 This Protocol applies to all dealings between Members and Officers and not only formal meetings.
- 1.5.4 Members and Officers should recognise the need for judgement and discretion in the operation of the principles in this Protocol. The Leaders of the Political Groups, the Chief Executive, Corporate and Assistant Directors and the Solicitor to the Council will be available to resolve difficulties.

## **2. GENERAL OBLIGATIONS OF MEMBERS**

- 2.1 Members must observe the Code of Conduct for Members whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and co-opted Members are bound in law by the Code of Conduct for Members.
- 2.2 The Code of Conduct for Members places certain general obligations that Members must observe and which have a bearing upon Member/Officer relations:
  - 2.2.1 Members must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
  - 2.2.2 Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
  - 2.2.3 Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation, are required to do so by law or for safeguarding reasons
  - 2.2.4 Members must not prevent another person from gaining access to information to which they are entitled by law.
  - 2.2.5 Members must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
  - 2.2.6 Members must use any Council facilities provided for them in their role as a member strictly for that purpose and no other. For example, Members must not use rooms in the Forum or any of the Council's paper, photocopiers, or printers for any personal, business-related or party-political matter, nor on behalf of any community groups of which they are a member. Members must, when using, or authorising the use by others, of any home office equipment provided by the Council (for example computers) act in accordance with any relevant Council requirements governing the use of such equipment.
  - 2.2.7 Members' Support Officers are employed to assist Councillors only in their role as Council Members. Members should not ask them to assist with any personal, business or party-political matter. Members' Support Officers will refer inappropriate requests for assistance to their Group Manager.



- 2.2.8 Members are under an obligation to disclose personal interests and in accordance with the Code of Conduct for Members. Members must register financial and other interests as well as gifts and hospitality as set out in the Code of Conduct for Members.
- 2.3 Members have a duty to act reasonably and, when taking part in the Council's decision making processes, must always:
- take into consideration everything they regard as relevant, or which they are advised is relevant;
  - disregard anything which they consider is not relevant, or which they are advised is not relevant;
  - Give reasons for their decisions
  - follow the correct procedure.
- 2.4 Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Dacorum. In law, someone with a fiduciary duty is someone who occupies a position of control over the property of another so that the law requires him or her to act solely in the interest of the person he or she represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other.

### **3. RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

- 3.1 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 3.2 Any close personal or family relationships between Officers and Members should be disclosed to the Chief Executive and the Solicitor to the Council who will then decide how far this needs to be disclosed to others. Members must also declare any such relationship with an Officer which might be seen as influencing their work as a Member to their Group Leader.
- 3.3 Generally, a close relationship between a Member and a Senior Officer of Group Manager level and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the Member, or the Officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists.
- 3.4 Close personal familiarity between individual Members and Officers can damage professional relationships and create difficulties for other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct.
- 3.5 Officers and Members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-Committee, Panels and other formal meetings that officers attend that are open to the public.

- 3.6 Officers should dress in accordance with the Staff Dress Code. Members should dress in formal business clothing when attending formal meetings with officers, members of the public or other external partners. .
- 3.7 The same degree of formality is not necessary at any social events that Members attend with Officers. Nevertheless, Members and Officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would damage their relationship with staff or Members. Socialising between Members and Officers, other than in an official capacity, should be avoided.

#### **4. THE ROLE OF MEMBERS**

##### 4.1 Members:

- 4.1.1 Develop and set policies that will then be implemented by Officers.
- 4.1.2 Monitor how those policies are being implemented.
- 4.1.3 Where their office allows them to do so, provide guidance to Officers on how those policies are to be implemented.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory roles and duties of the Chief Executive, as the Head of Paid Service, the Director of Finance and Operations as the Section 151 Officer, and the Solicitor to the Council, as the Monitoring Officer, and of the significance attached to their advice.
- 4.1.6 Consult with the Monitoring Officer and the Section 151 Officer about the Council's powers, maladministration, financial impropriety and probity, or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.7 Respect Officers' political impartiality
- 4.1.8 Promote the highest standards of conduct and ethics.

##### 4.2 Members must not:

- 4.2.1 Insist that any Officer take any action, or not take action, that the Officer considers unlawful or illegal or in direct contradiction of any code or guidance, or contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

#### **5. THE ROLE OF OFFICERS**

##### 5.1 Officers:

- 5.1.1 Implement the policies agreed by Members.

- 5.1.2 Will ask for guidance on implementation of the policies agreed by Members if they are unclear about any aspect of those policies.
  - 5.1.3 Give such professional advice to Members as may be required of them from time to time, recognising the different needs for advice Members may have in their different capacities as Ward Member, Cabinet Member or Scrutiny Member, etc.
  - 5.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
  - 5.1.5 Must remember that he or she is employed by Dacorum Borough Council as a whole, and not by any particular part of the Council.
  - 5.1.6 Are under a duty to help all Members and Co-opted Members.
  - 5.1.7 Must take all relevant matters into account when formulating advice to Members.
- 5.2 Officers must not:
- 5.2.1 Set policy other than for the smooth running of office procedures and processes, and as may have been delegated under the Council's Constitution and Scheme of Delegation.
  - 5.2.2 Take any action, or not take action, which would be unlawful or illegal, or in direct contradiction of any code or guidance, or contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **6. RELATIONSHIP BETWEEN THE CHAIRMAN AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES AND OFFICERS**

- 6.1 The Chairman and Members of the Council's Overview and Scrutiny Committees shall:
- 6.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the exercise of the Council's powers for a decision or the Monitoring Officer and/or other appropriate Officers where they consider a decision of the Cabinet or a Portfolio Holder might be contrary to the Council's policy/budgetary framework.
  - 6.1.2 When considering calling Officers to give evidence they shall not, without the consent of the relevant Chief Officer, request the attendance of a junior officer. This is to ensure that more junior officers are not put under undue pressure.
  - 6.1.3 When asking Officers to give evidence questions should be confined, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but must not be expected to give a political view.
  - 6.1.4 Where they consider it appropriate, ask Officers to explain and justify advice given to the Cabinet or a Portfolio Holder prior to decisions

being taken, and justify decisions they themselves have taken under the Council's Constitution.

6.1.5 Not question Officers in such a way as to be in breach of the Council's Harassment Policy nor attempt to deal with matters which are of a disciplinary nature.

6.1.6 At all times respect the political impartiality of the Officers.

6.2 Officers shall:

6.2.1 Maintain political impartiality at all times when commenting and/or advising on the Cabinet's/Council's policies and actions.

6.2.2 Be prepared to explain and justify advice given to the Cabinet/Portfolio Holders/Committees, etc, or the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegation.

6.2.3 Ensure that an Officer of sufficient seniority appears before the relevant Overview and Scrutiny Committee.

## **7. RELATIONSHIP BETWEEN THE CHAIRMAN OF OTHER COMMITTEES AND OFFICERS**

7.1 This paragraph 7 shall apply to all the other Council Committees and Sub-Committees.

7.2 The Chairman and Members of the other Committees and Sub-Committees shall:

7.2.1 Be bound by the same provisions set out in paragraph 2 (General Obligations of Members) when sitting as a Committee or Sub-Committee; and

7.2.2 Give Officers the opportunity to present any report and give any advice they wish to present or give.

## **8. MEMBERS IN THEIR WARD ROLE**

8.1 When acting in their ward role, Members:

8.1.1 Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise.

8.1.2 Recognise the Officers' right to suggest that Senior Officers, the Cabinet, Council, or a Committee or Sub-Committee need to authorise additional work requested by individual Members.

## **9. COMPLAINTS BY MEMBERS ABOUT OFFICERS OR SERVICES**

9.1 Members have the right to criticise reports or the actions taken by Officers, but they should always:

- avoid personal attacks on Officers
  - ensure that criticism is constructive and well-founded.
- 9.2 Members shall not undermine respect for Officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority.
- 9.3 Complaints about Officers or Council services should be made to the Assistant Director of the service where the Member feels the fault lies. Within five working days, s/he will:
- acknowledge the complaint, and
  - say if s/he intends to take action, or
  - say how long s/he needs to investigate.
- 9.4 Members have a right to know if action has been taken to correct a matter, but they must neither:
- influence the level of disciplinary action to be taken against an Officer, nor
  - insist (nor be seen to insist) that an employee is disciplined.
- 9.5 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.
- 9.6 Paragraphs 9.4 and 9.5 are without prejudice to the powers of the Appeals Committee (Employment)
- 9.7 If a Member is not satisfied that action has been taken to deal with the complaint it may be referred to the relevant Corporate Director or the Chief Executive by the Member concerned.

## 10. MEMBER ACCESS TO DOCUMENTS AND INFORMATION

- 10.1 In order that Members are able to carry out their duties they are given rights of access to a wide range of information by the common law, by statute, (in particular, provisions of the Local Government Act 1972, inserted by the Local Government (Access to Information) Act 1985) and the Access to Information Procedure Rules included within the Council's Constitution.
- 10.2 These rights do **not** extend to information:
- Which the Member does not require in connection with his or her duties as a Member, or
  - Which is "exempt information" of the types described in Schedule 12A of the Local Government Act 1972, or
  - Which is "confidential information" as defined by S.100A of the Local Government Act 1972 (i.e., information provided by a Government Department on condition that it is not disclosed to the public and information the disclosure of which is prohibited by law or by virtue of a court order).

- 10.3 In the first case a Member may have a right of access to the information as a member of the public. The right to inspect a document sometimes carries with it a right to have a copy (but a fee may in some cases be charged). Any Member may seek factual information or advice from any Officer of the Council. Members may need to approach the relevant Group Manager, or in appropriate circumstances the relevant Assistant Director if the matter is of significance. Information may be provided in writing and all requests will be subject to the usual legal restraints and an assumption that it can be provided at reasonable cost. If significant cost is involved the Assistant Director concerned shall seek guidance from the Cabinet Member or Chairman of the relevant Committee, as appropriate.
- 10.4 If a Member requests information from an Officer or asks to see a document or to be provided with a copy of a document, and the Officer concerned is in any doubt whatsoever about whether to comply, the Officer should refer the matter to his or her Assistant Director forthwith, who will, if necessary, consult the Solicitor to the Council.
- 10.5 There may be rare occasions when a Member asks for information which he or she has no right to have, and disclosure of which to an individual Member might, in the Assistant Director's judgement, be premature or have policy or "political" consequences. In such a case, the Assistant Director should refer the matter to the Cabinet Member or Chairman of the relevant Committee, as appropriate, and the Member concerned should deal directly with the Cabinet Member or Chairman on the matter who shall seek advice from officers as appropriate.

#### **Information in Confidence**

- 10.6 Members must be free to seek the advice or the opinion of Officers in confidence and it is essential that this confidence be respected. Advice should not be copied or otherwise disclosed to the Cabinet Member, or the Chairman of the relevant Committee, or any other Members of the Council. In some cases what the Member has requested may also include such information which should be made available to the Cabinet Member or Chairman. On these occasions it will be appropriate to send two separate letters to the Member who made the request, one containing the information, a copy of which will go to the relevant Cabinet Member or Chairman, the other containing the advice, which will not be copied.
- 10.7 The basic principle is that when an Officer provides information to assist members in the decision making process it will usually be provided to all the Political Groups on an equal basis. A Member seeking information should always be told when it is the intention to inform the relevant Cabinet Member or Chairman of the reply before the answer is given. All correspondence must clearly state the names of the recipients on it.
- 10.8 However, if a Member makes a general enquiry regarding their other ward duties, for example progress of a planning application, or on an issue concerning a particular housing tenant, the information will be provided solely to that Member on the basis that this is not information required by other Members to enable them to carry out their duties and/or it is exempt information.

### **Example Information request**

- 10.9 A Member asks an Officer why traffic calming has not been introduced in a road in his/her ward. The Officer informs the Member of the reasons surrounding the decision and copies the letter to the Chairman. Thus, if the Member asks the question at a Cabinet or Committee or Council meeting the Chairman will be aware of the factual information regarding this issue.

### **Example Advice request**

- 10.10 The Leader of a minority Political Group asks for assistance to produce an alternative budget. Although the advice is given in confidence, the Officer informs the relevant Cabinet Member or Chairman, so that procedurally the Cabinet/Committee/Council meeting can be managed effectively. The Leader of the Political Group is also informed that the Cabinet Member or Chairman is aware of the Officer's involvement but not the content of the advice. This means that the advice given remains confidential.

- 10.11 A more general example of the difference between information and advice is:

The Council needs to save £4 million from its budget. This is information that all Members require. Advice given to each of the Political Groups on how these savings could be achieved will be given in confidence.

### **Briefings**

- 10.12 Officers will offer all Political Groups a briefing. The Chairman/Leader may choose to have these briefings separately or with other Groups. The briefing with the Chairman/Leader may include procedural issues.
- 10.13 If the spokesperson of the Minority Group(s) is not invited to these briefings they may request a separate briefing meeting with the relevant Officers.
- 10.14 A Corporate or Assistant Director may communicate important, confidential matters relating to the work of a Committee/Cabinet to the Committee Chairman/Leader and any group spokesperson or the Political Group Leaders.
- 10.15 Group briefings will be confidential unless the spokespersons concerned indicate otherwise.
- 10.16 In the event that it is considered necessary to hold briefings prior to Sub-Committee meetings, the above will also apply.

## **11. CORRESPONDENCE AND RECORDING KEY DECISIONS**

- 11.1 All 'key decisions' of the Council, or any individual Members or Officers must be recorded. Key decisions are defined in the 'Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012' as an executive decision which is likely:

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates;
  - or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- 11.2 Unless it is impracticable to do so, the Council will treat any decisions which are likely to have a significant impact on communities in one ward as if they were key decisions.
- 11.3 Officers should ensure that they comply with the Access to Information Rules contained in Part 4 Rules of Procedure in respect of giving notice to Members and members of the public of the proposed making of Key Decisions.
- 11.4 Officers are expected to copy replies to Members' letters/emails to the relevant Portfolio Holder(s) where these relate to policy issues. All recipients should be stated on the response.
- 11.5 Correspondence between an individual Member and an Officer on a matter relating to a single constituent should not routinely be copied (by the Officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent or blind copies" should not be employed.
- 11.6 In some cases issues are raised by, or with, individual Members relating to a matter of general interest in a Council Ward or individual Parish. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward or Parish, copies of correspondence will normally be sent to all Members for the particular area. Where the Member specifically requests that correspondence is not copied to other Members, or there is a political, or other reason why this is not appropriate, this will be for the Officer to determine in consultation with the relevant Group Manager. Where correspondence is copied to other Members this will be made clear to the original Member before the answer is given.
- 11.7 Officer letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (for example representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member. However, it would not be appropriate for officers to make a 'political' response to a letter.

## **12. CONSULTATION**



- 12.1 'Chairman', and 'Vice-Chairman' in this Protocol, means, in the case of the Cabinet or the Standing Committees, the person agreed as such at the Annual Council Meeting.
- 12.2 When a Chairman is unavailable, Officers will consult the Vice-Chairman (if any), Group Leader or Deputy-Group Leader.
- 12.3 Officers need to consult with Members on frequent occasions, formally and informally, either specifically in pursuance of the Scheme of Delegation or to keep Members informed of the business of the Council.
- 12.4 When Officers approach an issue, they should ask themselves whether the matter requires the involvement of Members and if so whether it requires the involvement only of the ward Members. If it does, they will consult or inform that ward Member in writing and proceed; otherwise they will notify the Chairman for the relevant Committee.
- 12.5 Some cases will involve more Members where a cross-committee item arises or an item with mixed service and finance issues. In most cases the Leader and Deputy-Leader(s) of the Administration Group and Leaders of the Minority Groups should also be included and in other cases Officers should copy papers to them even if not consulting them. Where a joint working scheme is in operation Officers should also involve Members from other authorities as required.
- 12.6 Where a matter requires consultation, Officers will send either a letter or e-mail giving as full a picture as possible of the matter to the Chairman or relevant Member; for comment. The letter will include a date by which a response is needed. This date must allow the Members time for thought and if necessary to confer with colleagues: normally at least a week should be allowed, preferably longer. If the Members consent the Officer is free to proceed. Silence does not imply concurrence and Officers may need to remind the Members concerned. If a Member regularly fails to respond by the suggested date, the officer should consult the relevant Group Leader or Deputy-Leader of the Group as appropriate.
- 12.7 In any event, the Officer will always advise the Chairman or relevant Member of the decision reached and (if known) the outcome of the action.

### **13. BUDGET PROCESS**

- 13.1 The Chief Executive and Corporate Director (Finance and Operations) are able to assist any Group Leader in preparing a budget strategy prior to consideration through the Committee and Cabinet system. Strict confidentiality will be maintained by Officers in connection with this work.
- 13.2 If requested by the Chairman of the relevant Committee or by a Group Leader, the Chief Executive will require the relevant Corporate Director to draft written briefings on any proposed service changes. These will also be prepared on a confidential basis. If requested, Chief Officers, accompanied by the Chief Executive, will attend Political Group meetings to provide technical background information.

### **14. CHAIRMAN**

- 14.1 Appointments to the Cabinet are subject to the provisions of the Local Government Act 2000. Appointments to Committees and Sub-Committees are subject to the political balance provisions of the Local Government and Housing Act 1989 (with some exceptions).
- 14.2 Any requirement to consult with Chairman and/or Vice-Chairman under the Constitution or the Scheme of Delegation shall be observed. However, consultation shall also take place with the appointed representative of each of the Groups, including Minority Group Members. Any Political Groups, which do not have a Member as either Chairman or Vice-Chairman of a particular Committee or Sub-Committee, should formally advise the Solicitor to the Council of its spokesperson. The primary role of the Chairman is to conduct the meeting in accordance with the requirements of the law and the Council's Constitution.
- 14.3 Chairmen are expected to be procedurally fair to all Members when presiding at meetings.

## **15. TIMES OF MEETINGS**

- 15.1 Dates of meetings (except for those Sub-Committees, which meet only ad-hoc and are marked as such in the Scheme of Delegation) are agreed by Full Council. Meetings are all held at the Council's civic offices (the Forum) in Hemel Hempstead unless otherwise notified and the venue is identified on the Agenda. Meetings are generally held at 7.30 pm (except for Development Management Committee which is held at 7.00pm) but the time will be confirmed to Members on the front page of the agenda when issued.
- 15.2 Because of the importance to Members of being able to plan their diaries ahead, these dates should not be changed during the year. Changes will only be made to dates and times of Cabinet and Committees for good reason and if agreed by the Cabinet or Council or, if there is a genuinely pressing need, by the Chairman after consultation with other Group Spokespersons. A Special Meeting of a Committee may be called by the Chairman at any time in accordance with Rule 25 of the Rules of Procedure in the Constitution.
- 15.3 Special Meetings can also be summoned in accordance with Rule 25. The Solicitor to the Council will endeavour to fix the exact date and time to suit as many Members as possible after consultation with Group Spokespersons, usually by choosing the day of the week on which ordinary meetings of that Committee are held.
- 15.4 If there is insufficient business for any meeting, the Solicitor to the Council will consult the Chairman with a view to cancelling it.

## **16. COMMITTEE AND SUB-COMMITTEE AGENDA**

- 16.1 Items for inclusion on Committee agenda will be prepared on the initiative of the relevant Officer, following full officer consultation. Reports will be published at least five clear working days before the meeting in accordance with Part 4 (Rules of Procedure) of the Constitution. In each case, urgent or late items may not be published within this timescale but they will be provided as soon as available.

- 16.2 Any Group Leader may request that an item be reported to a meeting of the appropriate Committee, provided that such an item properly relates to a function or power of the Council or upon which it could be expected to have an opinion to voice. An item shall be placed on the agenda for the next available meeting of the appropriate Committee (ensuring that the required notice period for the report is given) so that debate may take place. In the event that a Corporate Director feels that a particular item is not relevant to a certain agenda, that Corporate Director should raise the matter with the Member concerned and if agreement is not reached, the matter should be referred to the Solicitor to the Council for guidance.
- 16.3 The notice of motion procedure enables any individual Member to bring a matter before the Council.

## **17. MINUTES**

- 17.1 A record of every decision taken by the Cabinet or a Portfolio Holder will be produced in accordance with the Access to Information Procedure Rules. The main body of the minutes in respect of decisions taken by Committees (other than the Overview and Scrutiny Committees) shall be limited to recording decisions made on items considered and noting matters reported for information and shall not extend to the discussions thereon. Minutes of all meetings shall include a record of voting and declarations of Members' interests. Draft minutes of each meeting will be forwarded by the relevant Members Support Officer to the Chairman, Vice-Chairman and Shadow-Chair, who will be asked to indicate if he or she has any comments by a given date and time. If no comments are received by the deadline, it will be assumed that the Members concerned concur with the draft minutes. If, in the process of seeking comments, disputes arise, the matter shall be referred to the Solicitor to the Council for guidance. Minutes shall be formally approved at the next meeting of the relevant committee
- 17.2 The Leader of the Council shall present the minutes of Council meetings to the Council, shall move any recommendations (no seconder is required) and shall have a right of reply before a vote is taken.

## **18. USE OF CASTING VOTE BY MAYOR OR CHAIRMAN**

- 18.1 The Mayor and Chairmen of Committees and Sub-Committees shall have a second or casting vote at any meeting in accordance with Rule 16.2 and Rule 4.2 of the Rules of Procedure. There are no restrictions on how the Mayor or a Chairman shall exercise a casting vote.
- 18.2 In the interest of the efficient conduct of the Council's business, most matters not coming before Committees and Sub-Committees will continue to be determined at the appropriate officer level in accordance with the Scheme of Delegation.
- 18.3 For the avoidance of doubt the term "Chairman" in this part of this Protocol is to be construed as relating also to a "Vice-Chairman" or any other Members of the Council chairing a meeting.

## **19. THE MAYOR**

- 19.1 The ceremonial and representational role of the Mayor and/or Deputy Mayor shall remain unaffected by this Protocol.
- 19.2 The Council should, in April/May of each year, consider nominations for the Mayor and Deputy-Mayor in the forthcoming Municipal Year.
- 19.3 Members should always be informed of and, where possible, invited to ceremonial events taking place within their own wards. Members taking part in ceremonial events must not seek disproportionate personal publicity or use the occasions for party political advantage. There may also be events when celebrities are invited to draw press and public attention. Appropriate elected Members, however, must also be invited.

## **20. MEDIA PROTOCOL**

### **20.1 Background**

This protocol is designed to help ensure an accurate, timely and cost efficient dialogue between Dacorum Borough Council and all our stakeholders.

The law governing communications in local authorities is largely enshrined in the Local Government Act 1986 and the Government's Code of Recommended Practice for Local Authority Publicity. These set out the restrictions under which Councils and groups funded by Councils, work.

The current code means that **all** Council publicity should be informative rather than persuasive. It 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

The Act states that the publicity may be illegal if it:

- promotes or opposes a point of view which is identifiable as the view of one political party and not of another;
- is part of a wider campaign which appears to be designed to affect support for a political party

The law applies to all forms of external communications including all aspects of media relations, printed material, web site information and conferences.

The Communications Team exists to serve the Council as a whole and to promote the authority, its policies and the area as a place to live, work and enjoy. Media relations will be conducted in a professional, open, transparent and helpful manner.

### **20.2 Use of Council Publicity Material**

All publicity material (including photographs) produced by Council officers or commissioned and paid for by Council services for publicity and information purposes is the property of the Council and, as such, is subject to copyright. It is important that a clear distinction should be maintained between the Council's publicity material and that produced by the Political Groups. Political Groups should not publish for their own party political purposes, publicity material in a form that wholly, or substantially replicates official Council press releases, statements and publications (for example Dacorum Digest), or individual articles in such publications, without first obtaining the express consent of the Monitoring Officer or the Communications and Consultations Team Leader.

In the case of photographs, it must be remembered that these constitute personal data for the purposes of the Data Protection Act. This means that, if a Political Group wishes to use a particular Council photograph which depicts a Council employee who can be personally identified, the express consent of that employee will have to be obtained in addition to the consent of the Monitoring Officer or Communications and Consultations Team Leader.

### **20.3 Press Releases**

Press releases relating to Cabinet may be prepared by the Communications Team in consultation with the author of the report, the relevant Corporate or Assistant Director and the Cabinet Portfolio Holder.

Other Council press releases are drafted by Officers and sent out without consultation with any Political Group or Members at the discretion of the Communications Team in consultation with the Chief Executive, relevant Director or Group Manager.

Media briefings may be arranged by the Communications Team.

Cabinet Members and the Chairmen of Scrutiny, Regulatory or Audit Committees may be quoted in Council Press Releases where the issue relates to their role. Non-political quotes from relevant officers may also be included.

### **20.4 Press Enquiries**

Press requests for information will be dealt with in the first instance by the Communications Team. Where the request concerns a matter of basic information or a documented policy decision, the Communications Team will respond directly. In other instances the Communications Team will liaise with the relevant Service Manager for a response.

The Communications Team will inform the relevant Group Manager and / or Corporate or Assistant Director of any enquiry which may have an impact on the reputation of the service and refer upwards any matters of controversy.

All responses to the media should go through the Communications Team for purposes of recording and monitoring. The Communications Team will act as Council spokespersons when providing factual or policy information or will put the media in contact with officers to explain more detailed technical or policy information where appropriate.

Where any matters of policy or of a controversial nature relate to Council business, the relevant Cabinet Portfolio Holder must be informed as soon as possible and given the opportunity to respond. The relevant Cabinet Member should be kept informed of any significant requests for information and/or comment.

Photo opportunities will only be arranged for Cabinet Portfolio Holders, the Mayor, Deputy Mayor, Chairmen or Vice Chairmen of Committees, and only then in connection with Cabinet or Committee business or Civic duties.

Local Journalists will be encouraged to exercise their right to attend all Cabinet and Committee meetings and meetings of the Council.

## **20.5 Publicity in the run-up to Elections**

Particular rules on publicity will apply in the run-up to all elections being conducted by the Council. All publicity referring to a Political Party or anyone standing for election must be suspended between the publication of a notice of election and polling day. During this period the Council will not issue any publicity that deals with controversial issues, or which reports views, proposals or recommendations in a way which identifies them with individual Members, groups of Members or any Political Party.

Members will not be quoted in Council press releases during this period. The only exceptions to this rule will be for a Member who holds a key political or civic position commenting on an emergency or an important event outside of the Council's control and where there is a genuine need for a response from a Member.

It is unlawful for the Council to incur any expense with a view to promoting the election of a particular candidate, including producing publicity material, such as circulars, publications or advertisements, which represent the candidate or their views, or disparage another candidate.

## **21. ATTENDANCE OF OFFICERS AT POLITICAL GROUP MEETINGS**

21.1 It should be noted that the national conditions of service for all local government officers provides that no Officer shall be required to attend any meeting of a Political Group. The conditions for Chief Executives allow local arrangements to be made, but only with the agreement of the Chief Executive and with safeguards to protect political neutrality in relation to the Council's affairs.

21.2 Any request from a Political Group for an Officer to attend a meeting of that Group shall be made in writing to the Chief Executive. The Chief Executive may authorise in writing the Officer concerned to attend on the understanding that:

21.2.1 The Officer will provide factual information only on an issue which is currently or will shortly be considered by a Committee, Sub-Committee or other body constituted by the Council, provided that the request does not relate to an individual person or an individual matter such as a planning application;

21.2.2 any such meeting will be held at the Forum, Hemel Hempstead

21.2.3 the only other persons present at such a meeting should be Members of the Council;

21.2.4 details of the request will be notified to the other Group Leaders for information only, and

21.2.5 Officers will leave Group meetings before Groups enter into discussion or decision making. Group Members should reserve political comment until the Officer concerned has left the meeting. Officers will not disclose the nature of any business conducted at Political Group meetings.

## **22. MEETING WITH THE CHIEF EXECUTIVE**

22.1 Group Leaders and the Chief Executive will formally meet jointly at regular intervals on a basis to be determined between them but this shall not inhibit any Members of the Council seeking a meeting with the Chief Executive at any time.

22.2 Groups, through their Leaders, may required to be briefed by the Chief Executive on the business of the Council. Such a briefing will be treated with whatever level of confidentiality the Group requires.

## **23. COMPLAINTS RECEIVED BY MEMBERS**

23.1 Letters, including complaints, arrive through many channels and may be addressed to Members on Council or Ward business. Officers will be happy to assist with responses and this will be sent solely to the Member concerned.

## **24. CONFLICTS OF INTEREST**

24.1 All Members and Officers shall make themselves familiar with the Council's own Members' and Officers' Code of Conduct and shall consider carefully whether there are Committees, Sub-Committees, working parties, etc for which they could not properly offer themselves. Clear rules are within the Codes as to disclosure of personal and other interests and Members are required by their Code to declare certain financial and other interests in the Register of Members' Interests kept for this purpose.

24.2 Officers of the Council having a financial interest in a contract which has been or is proposed to be entered into by the Council, must notify the Solicitor to the Council in writing of this fact and a Register of Declarations of Officer Interests in contracts is kept for this purpose.

24.3 Officers are encouraged to declare interests other than financial ones that they consider could at a later date bring about conflict with the Council's interests.

24.4 Rules on the acceptance of gifts are also clearly laid out in the Codes and Members and Officers shall familiarise themselves with these rules in the event of gifts or hospitality being offered.

- 24.5 Members appointed to serve on the Development Management Committee shall also make themselves familiar with the Council's "Planning Code of Practice".

## **25. CORRESPONDENCE**

- 25.1 All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the Ward Member.
- 25.2 Correspondence between individual Members and Officers should be treated as confidential unless the Member or Officer indicates otherwise. All correspondence should normally be open to the inspection of the public under the Freedom of Information Act 2000 unless exempt under the Act. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972 or if this would be in conflict with the data protection legislation.

## **26. BREACH OF THE PROTOCOL BY A MEMBER**

- 26.1 Members and Co-opted Members are required to report any matter that they believe may be a breach of the Code of Conduct for Members to the Monitoring Officer.
- 26.2 Officers are required to report any matter they believe may be a breach of the Code of Conduct to the Monitoring Officer.
- 26.3 Where there has been an alleged breach of this Protocol the Monitoring Officer will arrange for the matter to be investigated and may refer the complaint to the Standards Committee to be determined. A summary of all alleged breaches will be reported to the Standards Committee once each quarter.
- 26.4 The Monitoring Officer, in conjunction with the Chief Executive, may refer the alleged breach to the relevant Group Leader where appropriate.

## **27. BREACH OF THE PROTOCOL BY AN OFFICER**

- 27.1 Complaints of an alleged breach should be raised with the relevant Corporate Director and/or the Chief Executive who will arrange for the matter to be investigated. The provisions of section 9 of this Protocol will then apply.

## **28. FURTHER ADVICE**

- 28.1 Advice on the application of this Protocol should be sought from either the Chief Executive or the Monitoring Officer.



# **PLANNING CODE OF PRACTICE**

(July 2023)

## **1. Purpose of this Code**

1.1 The main objectives of this Code are to guide Members, (and in what follows, Councillors will for the most part be referred to as "Members"), and Officers of the Council in dealing with planning-related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Code of Conduct for Members, adopted by the Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters and to ensure that Officers carry out their responsibilities professionally and Members of the Development Management Committee are, and are perceived as being, impartial and accountable.

1.2 This code takes into account the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also the standards arrangements introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013.

1.3 Reference will need to be made to other parts of the Council's Constitution, as appropriate, as it is not the purpose of this Code to duplicate extensively provisions in the Code of Conduct for Members, Code of Conduct for Employees, Protocol for Member/Officer Relations, Scheme of Delegation to Officers and Rules of Public Participation.

### **1.4 Relationship to the Members' Code of Conduct**

1.4.1 Members should apply the rules in the Members' Code of Conduct first, which must always be complied with, including the rules on personal and prejudicial interests, Disclosable Pecuniary Interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

1.4.2 Members should then apply the rules in this Planning Code of Practice, which seek to explain and supplement the Members' Code of Conduct and the law on decision-making for the purposes of planning control. If you do not abide by this Planning Code of Practice, you may:

1.4.3.1 Risk the council being challenged in the law courts on the legality of the related decision or maladministration; and

1.4.3.2 Put yourself at risk of a complaint being made to the Monitoring Officer/Standards Committee for breach of the Code of Conduct for Members, or a complaint being made to the police to consider criminal proceedings in relation to failure to disclose a Disclosable Pecuniary Interest.

## **2. The Role of Officers**

2.1 In reporting to Committee on non-delegated applications, Officers shall:

- 2.1.1 provide professional and impartial advice;
- 2.1.2 make sure that all information necessary for a decision to be made is given;
- 2.1.3 set the application in the context of the Development Plan and all other material planning considerations;
- 2.1.4 include the substance of objections and the views of people who have been consulted;
- 2.1.5 provide a clear and accurate written analysis of the issues;
- 2.1.6 give a clear recommendation.

2.2 In making delegated decisions on applications, Officers shall:

- 2.2.1 act fairly and openly;
- 2.2.2 approach each application with an open mind;
- 2.2.3 carefully weigh up all the material planning considerations;
- 2.2.4 determine each application on its own merits in accordance with the provisions of the Development Plan and other material planning considerations;
- 2.2.5 ensure that the relevant report demonstrates that all the above requirements have been fulfilled;
- 2.2.6 state valid reasons for decisions.

2.3 The Council endorses the Royal Town Planning Institute Code of Professional Conduct, particularly the provision that Chartered Town Planners shall not make, nor subscribe to, any statement or report which is contrary to their own professional opinions. 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.

2.4 Subject to the rules for employees undertaking work for third parties, if an Officer who deals with any aspect of planning work has, or has had, any involvement with an Applicant, Agent or Interested Party on a personal basis, the Officer shall take no part in any work connected with the Applicant, Agent or Interested Party concerned.

2.5 Officers are also bound by rules relating to offers of gifts and hospitality contained in the Code of Conduct for Employees.

## **3. Discussions with Applicants/Representatives and Presentations**

3.1 Local Authorities are encouraged by the Local Government Association and the National Planning Forum to enter into pre-application discussions with potential Applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public, and especially by objectors, as prejudicing the planning decision-making process. In order to ensure transparency and propriety, pre-application discussions

shall normally be conducted between an Officer and a prospective Applicant without any Member being present, and in accordance with the following strictures:-

3.1.1 The Officer shall make it clear that the advice and discussions will not bind the Council and that any view expressed is provisional, on the basis that at that stage no formal consultation will have taken place in respect of the application;

3.1.2 The Officer shall give advice in a reasoned and impartial way based on the Development Plan and other material planning considerations;

3.1.3 The Officer shall indicate whether or not s/he will make the decision if an application is submitted;

3.1.4 The Officer shall make notes of any meeting and/or substantive telephone calls and keep them on file together with any documentation and correspondence, including emails, supplied by the prospective Applicant;

### 3.2 Pre-Application briefings involving members

3.2.1 The Assistant Director – Planning or the Head of Development Management in consultation with Member Support and the Chair or Vice Chair of Development Management Committee, will determine which applications will be considered suitable for pre-application briefings involving Members.

3.2.2 As a guide applications which have one or more of the following characteristics will be considered suitable:

- 50+ dwellings or more
- 10,000 sqm of industrial, commercial or retail floor space
- Wider corporate involvement by, or significance to, the Council
- Development of strategic significance e.g. wider regeneration benefits or transport infrastructure

3.2.3 These criteria could be reduced for development in villages, neighbourhoods or the rural area for 'locally significant or controversial' schemes, such as small housing development (under 50 dwellings) or a wind farm. Or in instances where the Assistant Director – Planning, the Head of Development Management or Chair/Vice Chair of the Development Management Committee consider a pre-application briefings to be useful on a site.

3.2.4 All ward Members will be invited, along with the Development Management Committee, in addition to the officers of the Development Management and Planning team. A minimum of 7 days' notice will be given to all Members.

3.2.5 The briefing will be conducted as follows:

- The briefing will be chaired by a senior Officer such as the Assistant Director – Planning the Head of Development Management or Team Leader (Development Management) who will introduce the purpose of the briefing and advise how it will be conducted.
- Officers will confirm that the discussions will not bind the Council to make a particular decision and that views/opinions expressed are made 'without prejudice' to the future consideration of any application.
- Members will be advised as to the confidentiality status of the proposal.

- The developer will present their proposal (which will first have been viewed and approved by the relevant Officer(s)).
- The Officers will be given the opportunity to provide comments.
- Members will then be given the opportunity to ask questions and seek clarification, but care will need to be taken that personal views are not expressed.
- The chair of the briefing will summarise the key points and close the briefing.

3.2.6 Once the developer has left the briefing Members may advise Officers of any concern they have with the proposal and any elements they feel would benefit from negotiation. They will be guided by Officers on the scope of negotiation in accordance with Local Plan policy and other material considerations. Negotiations will be undertaken by Officers only.

3.2.7 The Case Officer will record the briefing and co-ordinate a minute of the briefing and/or formal pre-app response letter for the developer normally within 14 days. Members will receive a draft copy of the response in advance for any suggested amendments.

3.2.8 The note of the briefing and letter will be placed on the file at the earliest possible opportunity (taking account of the need for commercial confidentiality). The involvement of Members will be recorded in any subsequent Committee Report.

3.2.9 Members are at the briefing to learn about the proposals and process, to help identify issues to be dealt with by further submission and negotiation, but not to express any initial view for or against the proposal which may pre-determine their position to the extent that they will not be able to vote on the application should they be a Member of the Development Management Committee. Members may alert the applicant/developer to what they perceive as the likely (or actual) views of their constituents but should be careful not to fetter their discretion.

3.2.11 Members should be aware of the confidentiality status of the proposal and to have regard to this in conducting further discussions with others, including constituents and other Members.

3.2.12 Members should avoid giving separate advice on the development plan or material considerations, as all the issues and relevant information may not be available at this early stage. Any advice should be given by Officers only.

3.2.13 Members should not be drawn into any negotiations. This should be done by Officers only.

3.2.14 Members attending pre-application briefings shall have undertaken such training as is felt appropriate in consultation with the Assistant Director – Planning or the Head of Development Management.

3.3 In an exceptional case it may be appropriate for Members to receive a special presentation on a particular planning proposal or wider planning issues. It shall be made clear at the outset that no Member present whose role in the Council's decision-making structure is such that he or she would potentially be liable to make a decision subsequently on the proposal or issues concerned will offer any view or comment: such Member will be limited to asking questions of clarification. Subject to the relevant provisions of 8. below, other Members will be at liberty to express opinions as they will not be potentially liable to make any decision subsequently. An Officer shall be present at the presentation and shall make notes detailing Members' views, comments and questions and keep such notes on file. Those present at the meeting should be 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.

3.4 If Members are approached by developers asking to meet regarding pre-application or application proposals, such meetings must always take place with Officer support. Members must not meet with developers on their own.

#### **4. Exclusions from the Scheme of Delegation to Officers**

4.1 Decisions relating to certain proposals for development by the Council, or affecting land or buildings in which the Council has an interest, or relating to certain proposals submitted by or on behalf of Members or Officers, are required to be reported to the Development Management Committee. Such proposals shall be subjected to the same rigorous examination as proposals submitted by other parties.

#### **5. The Role of Councillors**

5.1 In making decisions on planning matters, Members shall:

5.1.1 act fairly, openly and impartially;

5.1.2 avoid inappropriate contact with interested parties;

5.1.3 approach each application with an open mind;

5.1.4 carefully weigh up all the material planning considerations;

5.1.5 determine each application on its own merits in accordance with the provisions of the Development Plan and other material planning considerations;

5.1.6 demonstrate sound judgement and ensure that valid, evidenced and justifiable reasons for decisions are clearly stated;

5.1.7 vote as they consider appropriate and not along party lines.

5.2 Members shall refrain from personal abuse and bullying and party political considerations shall play no part in their deliberations. Members shall at all times be respectful to the Chairman of the Committee and to each other and to Officers and members of the public including Applicants, Agents, Objectors and Members of other Councils.

5.3 Members shall not give instructions to Officers nor place any pressure on Officers in order to influence the terms of a report and/or secure a particular recommendation on any planning matter.

5.4 Members shall ensure that all correspondence (including emails) with Officers, Applicants and Objectors are written using language which is professional and respectful. Members are reminded that all correspondence is potentially disclosable to the public pursuant to a freedom of information request.

5.5 If any Officer has grounds to consider that pressure is being exerted upon him or her by any Member in relation to any particular planning matter, he or she shall forthwith notify the Monitoring

Officer and the Assistant Director (Planning, Development and Regeneration) of the details of such matter and the Member's conduct.

5.6 Any criticism by any Member of any Officer in relation to the handling of any planning matter shall be made to the Assistant Director – Planning and shall not be raised in public.

5.7 Members shall not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.

## **6. Lobbying**

6.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee. As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves". Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

6.2 It remains good practice that, when being lobbied, councillors (members of the Development Management Committee in particular) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the relevant evidence and arguments.

6.3 Planning applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision. Members need to be mindful that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality.

6.4 To avoid compromising their position before receiving all the relevant information and hearing all the relevant evidence and arguments, Members shall:

6.4.1 not determine in advance of the consideration of the application by Committee whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision (see paragraph 8 below);

6.4.2 restrict themselves to giving procedural advice, such as advising lobbyists to write to the relevant case officer and/or avail themselves of the public participation process;

6.4.3 explain they will only be in a position to make a final decision after having received all the relevant information and having heard all the relevant evidence and arguments at the Committee meeting itself;

6.4.4 advise the Monitoring Officer promptly of the existence of any lobbying activities or approaches which are felt by the Member to be undue or excessive

6.4.5 explain to those lobbying or attempting to lobby that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or confirm a clear point of view.

6.4.6 not 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.

6.4.7 copy or pass on any lobbying correspondence you receive to the Head of Development Management at the earliest opportunity, including any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

#### 6.5 Lobbying by Councillors:

6.5.1 Members shall not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.

6.5.2 Members may join general interest groups which reflect their 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 should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.

6.5.3 Member shall not lobby fellow councillors regarding their 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.

6.5.4 Members shall not decide or discuss how to vote on any application at any 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. Material Submitted to Members by Applicants and Others**

7.1 If a Member receives information or material from or on behalf of any party in connection with any planning matter s/he must establish with the Planning Officers whether the information or material has also been received by them. If it has not, the Member shall make it available as soon as possible to the Head of Development Management.

7.2 Members shall otherwise report to the Head of Development Management any significant contact with the applicant and other parties, explaining the nature and purpose of the contact and their involvement in them, and ensure that this is recorded on the planning file.

### **8. Committee Meetings**

When approaching a decision Members shall be mindful that the Principle of Integrity is defined 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”.

## 8.1 Declaration of Interests

8.1.1 The responsibility for declaring an interest lies with the individual Member.

8.1.2 Members of the Development Management Committee shall declare disclosable pecuniary interests and personal and prejudicial interests in planning matters in accordance with the Members’ Code of Conduct.

8.1.3 Where a personal interest arises because a Member is a member of, or is in a position of control or management in, a body to which s/he was appointed or nominated by the Council or which exercises functions of a public nature, s/he need only declare the personal interest if and when s/he addresses the Committee on that item (unless s/he also has a prejudicial interest).

8.1.4 A Member with a disclosable pecuniary interest or a prejudicial interest shall declare it and move to the public seating area Provided the Member has registered to make representations under the rules applicable to public participation, the Member shall be entitled to take a seat in the place set aside for public participation and shall then follow the rules for such participation.

8.1.5 In addition, a Member shall not seek improperly to influence a decision in which s/he has a disclosable pecuniary interest or a prejudicial interest.

8.1.6 If a Member has a disclosable pecuniary interest or a prejudicial interest in a planning matter which would normally be dealt with by Officers under the Scheme of Delegation, s/he shall not request that the matter be referred to the Committee for consideration.

8.1.7 Members who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Development Management Committee.

## 8.2 Predisposition, Predetermination and Bias.

8.2.1 A Member is entitled to be predisposed about a particular matter. Predisposition is where a Member holds what may be termed a preliminary, or provisional, view and may have expressed such view publicly and, indeed, been elected upon the strength of it. Such comments have an added measure of protection under the Localism Act 2011. The critical point is that the Development Management Committee Member must have an open mind in relation to all the relevant information, evidence and arguments when participating in the decision-making process and be prepared to reconsider their position in the light of all the relevant information, evidence and arguments.

8.2.2 If a Development Management Committee Member is not prepared to be open-minded and to consider all the relevant information, evidence and arguments relating to a particular matter, or in any way gives the appearance of having decided in advance what stance to take at the meeting, that Member may be considered to have predetermined the matter or to be biased in relation to it. If that Member then participates in the decision-making process the Committee’s decision may be ruled as invalid.



8.2.3 If a Member of the Committee has compromised his or her position by expressing views which indicate that he or she has already made up his or her mind on an issue before receiving all the relevant information and hearing all the relevant evidence and arguments, that Member shall make a declaration to that effect and take no part in the discussion, voting or decision. In such a case, the Member may speak as a member of the public or, where the Member represents the Ward affected, as Ward Member, subject to compliance with the public participation rules.

8.3 Any Member in any doubt about the declaration of interests or predetermination should seek the advice of the Council's Monitoring Officer or Deputy Monitoring Officer.

8.4 Members shall:

8.4.1 Fully read the agenda and any addendum prior to attending the Committee meeting.

8.4.2 come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse.

8.4.3 not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officer's introduction to the matter.

8.4.4 not allow members of the public to communicate with them during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

8.4.5 ensure that they comply with the Council's procedures in respect of public speaking.

## **9. Development Management Committee Members who serve on Parish and Town Councils**

9.1 Some Borough Councillors will also be Members of Parish or Town Councils. This situation can present problems where the Parish or Town Council is consulted on planning applications. This is often the stage when Borough Councillors come under pressure to indicate their support or objection in respect of a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils votes on an application at a Parish or Town meeting prior to the relevant Borough Development Management Committee meeting. It would be quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information, evidence and arguments are made available at the Borough Committee meeting.

9.2 In order to avoid any potential conflict, it would be preferable for Borough Councillors not to serve on a Parish or Town Council's Planning Committee. If they cannot avoid that, and if they wish to participate in the Borough Committee's deliberations, they shall not vote or say anything which would create the impression that they have already made up their minds prior to the relevant Borough Committee meeting. In this way they will avoid being part of the formal process of submitting representations on planning applications to the Borough Council and so demonstrate their impartiality. To avoid any challenge, those Members who have expressed a definite view on an application and/or have voted shall act as indicated under paragraph 8 above.

## **10. Formal Site Visits**

10.1 Formal site visits can be helpful in identifying features of a proposal which may be difficult to convey in a written report. Site visits may delay the decision on an application but, where there is a clearly identified benefit from holding one, they will be authorised by the Development Management Committee. The reason why a formal site visit was authorised will be recorded in the minutes.

10.2 Where a formal site visit is held, all Members of the Development Management Committee will be invited to attend. The local Member, if not serving on the Development Management Committee, will also be invited to attend. The relevant Town or Parish Council will be notified of any formal site visit and invited to send a representative. At least one Officer will be present at all formal site visits to conduct the proceedings and a record will be kept of attendance.

10.3 All those who attend a formal site visit do so on the understanding that such visits:

10.3.1 are fact finding exercises;

10.3.2 are not part of the formal consideration of an application and public rights of attendance and participation do not apply;

10.3.3 enable Officers to point out relevant features;

10.3.4 enable questions to be asked for clarification;

10.3.4 No discussion of the merits of an application shall take place on site and no lobbying/objection shall be permitted;

10.3.5 No opinions or views should be expressed as to the merits or demerits of the application.

10.4 Any Member wishing to see any particular site on an individual, informal basis prior to a Committee meeting shall have due regard to the other provisions of this Code, for example paragraphs 5, 6 and 8. and such Member should seek to view the site from a public vantage point in the first instance.

10.5 Members should ensure that they report back to the Committee any information gained from the site visit that they feel would benefit all Members of the Committee.

## **11. Decisions Contrary to Officer Recommendations**

11.1 There will be occasions when the Committee disagrees with the professional advice given by Officers. In such cases reasons shall be given for overturning Officer recommendations and, in the case of approval of a planning application recommended for refusal, the conditions to be imposed shall be specified.

11.2 When making a decision contrary to Officer recommendations, the reasons given by Members must engage with the recommendations and reasons of the Officer and explain the reasons for departure from those recommendations.

11.3 Members must be mindful that they are only entitled to take account of material planning considerations and must disregard considerations irrelevant to the question and legal context at

hand and are to come to a decision after giving what they feel is the right weight to those material planning considerations.

11.4 Members shall make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that they clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded and must be supported by objective analysis and substantive evidence.

11.5 Members shall be aware that they are likely to have to justify any decision by giving evidence at a planning inquiry, appeal or other forum in the event of any challenge.

## **12. Training**

12.1 Members of Development Management Committee shall undergo induction training and attend refresher training at regular intervals thereafter. Failure by a Member to attend formal induction training will disqualify that Member from sitting on the Committee. Failure to attend formal refresher training may result in a recommendation to full Council for the removal of a Member or Members from Development Management Committee. The Head of Development Management, in consultation with the Chairman of Development Management Committee, shall formally review Members' training needs and monitor whether all training requirements have been met on an annual basis

**WHISTLE BLOWING POLICY**  
**(Adopted by Council on 11 July 2007)**

**1. Introduction**

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, sometimes it can be difficult to know what to do.

The Council has introduced this policy to enable you to raise your concerns about malpractice at an early stage and in the right way. We would encourage you to raise the matter when you have a genuine concern rather than wait for proof.

**2. Who may use this policy?**

- Staff employed by the Council
- Councillors
- The Council's contractors and sub-contractors
- Agency and Temporary staff

**3. When does the policy apply?**

Use this procedure where you reasonably believe that you have information which tends to show malpractice such as a:

- Breach of legal obligation
- Criminal offence
- Breach of health and safety
- Environmental damage or
- Miscarriage of justice

Remember, the Council also has in place an Anti-Fraud and Corruption Policy, which this policy is intended to complement.

It is inappropriate for you to raise your concerns outside the Council before you have voiced your concerns internally first, since doing so may weaken the protection given to you under the Public Interest Disclosure Act 1998.

Where you have an employment grievance, the provisions of this policy will not apply. Please use the Council's Grievance Procedure. A copy can be obtained from the intranet, your manager or from Human Resources.

**4. The Council's assurances to you:**

If you raise a concern in good faith, you will not be at risk of losing your job or suffering any form of retribution as a result. Of course the Council does not extend this assurance to someone who maliciously raises a matter they know is untrue.

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity, your details will not be disclosed without your consent. Your anonymity is protected under the Public Interest Disclosure Act 1998. If the situation arises where the matter cannot be resolved without revealing your identity (for instance because your evidence is needed in court), the person investigating the matter will discuss with you how to proceed.

The Council will consider, as far as is reasonably practicable, concerns raised anonymously. Remember that if you do not reveal who you are, the person investigating the matter will be unable to give you any feedback. It will also make the task of investigating the allegation more difficult.

**5. What the Council will do if you raise a concern:**

Once you have expressed your concern, the matter will be looked into to assess what action should be taken initially. This may involve an internal inquiry or a more formal investigation. In the interim, the issue you raise will be acknowledged within 5 working days. You will be told:

- who is handling the matter
- how you can contact him/her
- whether your further assistance may be needed

**6. How to raise your concerns:**

**Employees:**

If you have a reasonable concern about possible malpractice, please raise it with your manager or Head of Service first. This may be done orally or in writing.

If you do not feel able to approach your manager or Head of Service, you should report your concerns to:

- your Director; or
- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud.

**Councillors:**

Councillors should report concerns to:

- their Group Leader; or
- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud.

## **Contractors, Sub-Contractors, Agency & Temporary Staff**

You should report your concerns in writing to:

- the Chief Executive; or
- the Director of Finance & Resources (Section 151 Officer); or
- the Head of Legal and Democratic Services; or
- the Corporate Anti-Fraud Manager; or
- the Senior Manager Internal Audit & Corporate Anti-Fraud

The correspondence address is: Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, Herts, HP1 1HH. Please mark the envelope **“PRIVATE & CONFIDENTIAL- FOR ADDRESSEE’S EYES ONLY”**

### **7. Independent Advice**

If you are unsure whether to use this procedure or if you want independent advice at any stage, you may contact the independent charity Public Concern at Work on (0207) 4046609. Their advisers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work. They will support you and advise you on the law and how best to proceed.

**PART 6**

**MEMBERS' ALLOWANCES  
SCHEMES**

**1 April 2023**

## PART 6

### **DACORUM BOROUGH COUNCIL MEMBERS' ALLOWANCES SCHEME WITH EFFECT FROM 1 APRIL 2017 (Approved at Full Council on 22 February 2017)**

The Dacorum Borough Council, in exercise of the powers conferred by the Local Government Act 2000 (after consideration of the recommendations of an Independent Remuneration Panel (in line with the Local Authorities (Members' Allowances)(England) Regulations 2003)) hereby makes the following scheme:

1. This scheme may be cited as the Dacorum Borough Council Members' Allowances Scheme, and shall have effect from 1 April 2017.

#### **Basic Allowance**

A total increase of 5.9% to the Basic Allowance (BA) payable to all Councillors is proposed.

For each year a basic allowance of £6,120 shall be paid to each Councillor.

*(As proposed by the Independent Remuneration Panel and agreed by Full Council, please see Appendix A for allowances paid to members from 1 April 2023)*

#### **2. Special Responsibility Allowances**

- (a) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in schedule 1 to this scheme.
- (b) Subject to paragraphs 8 and 9, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
- (c) No member is allowed to draw more than one special responsibility allowance at any one time.

#### **3. Indexation of Basic Allowance and Special Responsibility Allowance**

These allowances should be valid for the period from 1 April 2023 through to the end of the 2023-2024 financial year.

This indexing arrangement should apply from 1 April 2023 to the end of the financial year commencing on 1 April 2024.

The indexing arrangements applying to all allowances other than the BA/SRAs are set out under the relevant allowance. In all cases, it is



recommended that the indexation arrangement should apply until the end of the financial year commencing on 1st April 2024.

#### 4. Care Allowances

This is an allowance for Members who incur expenditure on the care of children or dependants in order to perform their duties as Councillors. To qualify, each of the following criteria must be met:-

- (i) The event requires the Member to provide care for:-
  - a child below school age; or
  - a child under 14 outside school hours; or
  - an elderly, sick or disabled dependent requiring constant care
- (ii) The Member pays another person (not his/her partner) to provide that care.
- (iii) The sums claimed do not in the case of **Child Care** exceed the actual sum paid or £10.42 (In line with the [National minimum wage](#)) per hour up to a maximum of £1,083.68 for the year.
- (iv) The sums claimed do not in the case of **Dependant Carers Allowance** exceed the actual sum paid or £13.32 per hour up to a maximum of £1281 for the year.

#### 5. Allowances for co-opted members

Co-opted members can only be paid an allowance for the time they spend in meetings of the Committee. The allowance for co-opted members of any Committee who are not Chairman of the Committee is £400 p.a.

The co-opted member chairing a Committee should receive an allowance of £1,000. The Chairman of the Committee should receive only this sum, and should not also be able to claim the "ordinary" co-optees allowance referred to in the paragraph immediately above.

The allowances payable to co-optees are also to be covered by the same indexing arrangement applied to the Basic Allowance and Special Responsibility Allowances.

Co-opted members will receive the same rates of travel allowance in respect of travel to and from meetings as Councillors.

There is a possibility that, in the future, the Council may choose to co-opt members on to Committees. It would be right for such members to receive travel allowance and an annual allowance. The level of the

latter would, however, depend on the Committee to which the co-option had been made and the work the co-optee was expected to undertake. It would therefore need to be referred back to the Independent Remuneration Panel, who would endeavour to arrive at a recommended level very quickly and with the minimum of formality.

## **6. Local Government Association - Approved Duties**

The Local Government Association (LGA) will pay an attendance allowance of £30 for each day that includes an approved duty. Approved duties will include:

- (a) Standing Committees (including the Urban and Rural Commission Steering Committees).
- (b) Panels and task Groups of the Association.

## **7. Backdating of allowances**

The Local Authorities (Members' Allowances)(England) Regulations 2003 provide for: the retrospective application (to the beginning of the financial year) of an amended scheme of allowances; and/or the backdating of allowances to individual Councillors in circumstances where they take on duties entitling them to a different level of allowances (e.g. where a Councillor is appointed to the Executive, and thus entitled to a special responsibility allowance) to the time at which the circumstance changed.

With regard to the latter provision, where any member has been formally appointed to a role which attracts an SRA for a period, but has not been receiving that SRA, it should be paid retrospectively (subject to the restriction that it cannot be backdated beyond the start of the relevant financial year.) See also paragraph 9 (f) and (g) regarding the making of retrospective payments of SRAs to individual members where circumstances justify it.

With regard to the former provision (i.e. retrospective application of the allowances scheme), there is no reason to backdate the scheme set out here. However, in the future, the Council may choose to exercise the discretion, permitted in the 2003 regulations, to backdate a new allowances scheme, subject to the Council receiving a recommendation from the Independent Remuneration Panel to this effect.

## 8. Part-year Entitlements

- (a) 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 a year, this scheme is amended or 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.
- (b) If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
  - (i) Beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or
  - (ii) Beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year;

The entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (c) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
- (d) Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (b) (i), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a Councillor subsists bears to the number of days in that period.
- (e) Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her 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 he/she has such special responsibilities bears to the number of days in that year.

- (f) Where this scheme is amended as mentioned in sub-paragraph (b), and a Councillor has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (b) (i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

**9. Renunciation**

A Councillor may, by notice in writing given to the solicitor to the Council, elect to forego any part of his/her entitlement to an allowance under this scheme.

**10. Ceasing payments of allowances to members who have been suspended**

The Council, through the Standards Committee will make every effort to (fully or partly) withdraw or recover allowances from members, who have been (fully or partly) suspended or disqualified, unless there are exceptional extenuating circumstances.

(NB. under the Local Authorities (Members' Allowances)(England) Regulations 2003, withholding or recovering Carers Allowance is not permissible, should this issue ever arise.)

(Note: Although not part of the general scheme, attention is drawn to the Annex concerning other types of allowances and general guidance.)

## SCHEDULE 1

### SPECIAL RESPONSIBILITY ALLOWANCE

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

Role	BA Multiplier	SRA 2023/24	Number payable	Total Cost
Leader	3	18,360	1	18,360
Cabinet members* (see note 6.3 above)	2	12,240	*6	67,260
Cabinet Support Officer	1	6,120	1	6,120
Chairman of Development Control Committee	1	6,120	1	6,120
Chairman of Licensing and Health and Safety Enforcement Committee	1	6,120	1	6,120
Chairman of Licensing and Health and Safety Enforcement Sub Committee	0.5	3,060	1	3,060
<b>Or, and only if this allowance is unclaimed,</b> Vice Chairman of Licensing and Health and Safety Enforcement Committee				
Chairman of Appeals Committee	1	6,120	1	6,120
Vice Chairman of Appeals Committee	0.5	3,060	1	3,060
Chairman of Audit Committee	1	6,120	1	6,120
Chairman of Overview and Scrutiny Committees	1	6,120	3	18,360
Vice Chairmen of Overview and Scrutiny Committees	0.5	3,060	3	9,180
Vice Chairman of Development Control Committee	0.5	3,060	1	3,060
Chairman Standards Committee	0.25	1,530	1	1,530
1 <sup>st</sup> Opposition Group Leader	1.25	7,650	1	7,650

- No member is allowed to draw more than one SRA at any one time.

Mayor/Deputy Mayor		
Mayor's Salary and Allowance	1	£9,481
Deputy Mayor's Salary	1	£1,774

## SCHEDULE 2

### APPROVED DUTIES

Specified for the purpose of the payment of the Basic Allowance, are the following categories of approved duties.

1. Attendance at meetings of the Council.
2. Attendance at meetings of Committees and Sub-Committees to which members have been duly appointed.

3. Attendance as a duly appointed member at a meeting of the Cabinet; Overview and Scrutiny Committees; any joint consultative Committee or Working Party or other sub group, however named, approved by the Council or a Regulatory Committee.
4. Attendance by a member of the Council at a meeting of the Cabinet; Overview and Scrutiny Committees; or a Committee or Sub-Committee of which he/she is not a duly appointed member on the occasion of there being an item of business in particular of ward interest.
5. Attendance at any official visit, or site visit provided such attendance is approved by a Portfolio Holder before the duty is carried out.
6. Attendance at any seminar run by officers of the Council to inform members on matters concerning Local Government administration and finance when the invitation to attend is extended to at least all members of the Cabinet; Overview and Scrutiny Committees; or a particular Committee or Sub-Committee.
7. Attendance by a member or members of the Council present at the opening of tender documents.
8. Attendance by a member or members of the Council in connection with the discharge of any functions of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.
9. Attendance, as an appointee or nominee of the Council, at a meeting of the following outside bodies approved for the time being by the Council (including attendance at a meeting of a Committee or other subordinate body of such a body to which the member has been duly appointed by the body or the Council):

Community Development Agency for Hertfordshire  
 Hertfordshire Countryside Forum  
 Dacorum Environmental Forum  
 Eastern Arts Board  
 Eastern Orchestral Board  
 Hertfordshire Building Preservation Trust  
 Hertfordshire Local Government Association  
 East of England Regional Assembly  
 Hertfordshire Environmental Forum  
 Hertfordshire Playing Fields Association  
 Hertfordshire Conservation Society  
 Hertfordshire Leisure Strategy Steering Committee  
 Local Government Association  
 Luton Airport Joint Consultative Committee  
 National Playing Fields Association  
 National Society for Clean Air  
 Police Community Partnerships  
 Standing Committee for Museum Services in Hertfordshire  
 West Herts Crematorium Joint Committee  
 Watford Enterprise Agency  
 Leaders Meetings



## NOTES ON OTHER TYPES OF MEMBERS' ALLOWANCES AND GENERAL GUIDANCE

### 1. Other Allowances

In addition to the allowances prescribed in the Scheme, Councillors are entitled to claim the following allowances for an approved duty:

#### Travelling Expenses and Subsistence Allowance

(1) Where expenditure on travelling or subsistence is necessarily incurred for the purpose of enabling a member to perform any approved duty, travelling allowance or subsistence allowance, as the case may be, will be paid at the maximum rate for the time being specified in this scheme; and

(a) Where a member so travels by rail, **standard** class rail fare shall be paid;

(b) for the purpose of determining whether travel by a member's own private car is reasonable, it shall be taken that such mode of travel is reasonable in any case where the member certifies that the use of his/her vehicle is of greater convenience to him than public transport in performing the approved duty.

(2) The rate for mileage allowances is as follows:

(a) Where a member certifies that the use of his or her own **solo motor cycle the rate is 24p per mile:**

(b) Where a member certifies that the use of a private vehicle results in a substantial saving of the member's time, or is in the interests of the Council, or is of greater convenience to him/her than public transport in performing the approved duty **a standard mileage payment of 45p per mile (Current HMRC approved rates) be made in respect of all "approved duty" journeys undertaken.**

Where a member is not able to provide a certificate under the preceding sub-paragraph:

A flat rate of 13.6p a mile for all classes of vehicles.

(c) The rate specified in sub-paragraphs (a) and (b) may be increased in respect of the carriage of each passenger, not exceeding 4, to whom a travelling allowance would otherwise be payable under any enactment:



- (i) by not more than 5.0p a mile for the first passenger and;
  - (ii) 2.0p per mile for the second and subsequent passengers.
- (d) Where a member certifies that the use of his or her own **solo bicycle the rate is 20p per mile**

The level of the payments in (a) – (d) above should be indexed to the Inland Revenue approved cost of operating such vehicles, as published by the Inland Revenue from time to time.

- (3) The present rates of subsistence allowance payable are as follows:

- (a) in the case of an absence, not involving an absence overnight from the usual place or residence:

	£
(i) Breakfast Allowance (more than 4 hours away or a lesser period before 11 am)	6.45
(ii) Lunch Allowance (more than 4 hours or a lesser period, including the lunchtime between 12 noon and 2 pm)	8.91
(iii) Tea Allowance (more than 4 hours away or a lesser period , including the period 3 pm to 6 pm)	3.52
(iv) Evening Meal Allowance (more than 4 hours away or a lesser period, ending after 7 pm)	11.03

- (b) In the case of an absence overnight from the usual place of residence £79.82 (to cover the cost of an hotel or guest house); and for such absence overnight in London, or for the purposes of attendance at an annual conference (including or not including an annual meeting) of the Local Government Association or such other association of Local Authorities, or such other association of bodies as the Council may for the time being approve for the purpose, £91.04.

- (4) When main meals (ie a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable cost of the meals (including VAT), may be reimbursed in full, within the limits specified below. Where the cost of meals taken on trains is reimbursed, the rate of day subsistence allowance for that period of duty shall not exceed the maximum payable if the period of absence from the usual place of residence were reduced by 4 hours in respect of each meal taken.
- (5) The limitations on reimbursement are:
- (i) Absence of more than 4 but no more than 8 hours, the cost of 1 main meal.
  - (ii) Absence of more than 8 but no more than 12 hours, the cost of 2 main meals.
  - (iii) Absence of more than 12 hours, the cost of 3 main meals.

The levels of these Subsistence Allowances will be increased each April in line with the rate of increase in the Retail Prices Index (RPI) for the preceding September.

## **2. PAYMENT OF ALLOWANCES**

Arrangements for payment of allowances to which members are entitled are set out in the following paragraphs:

### **(1) Travelling Expenses and Subsistence Allowance**

It is necessary to complete a claim form obtainable from the Finance Department to receive travelling expenses and/or subsistence allowance. They may be claimed immediately after they have been incurred and payment will be made by direct credit on the 25th of the month. In the case of travelling expenses to Council and other meetings, it is suggested that members list on a sheet of paper for a period of, say, at least a month, the date and name of the meetings they attend with the appropriate mileage.

### **(2) Special Responsibility and Basic Allowances**

The allowances are subject to income tax and National Insurance contributions. The special responsibility and basic attendance allowances will be paid monthly. The period of payment will be from the 10th of one month to the 9th of the next month (ie 10 April to 9 May). Payments will be made on the 25th of the month by direct credit into Members Bank or Building Society accounts.

### 3. LIABILITY FOR INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS

#### (1) Income Tax

The allowances are income from which tax is deductible under the Pay-As-You-Earn system. Travelling and subsistence allowances are not taxable. Generally, if a member has employment elsewhere, tax will be deductible from the allowances at the standard rate. However, a member who is not in regular employment may qualify for personal tax allowances to be set against the liability on the allowances. Any member who feels that he/she may qualify for the tax allowances should write to HM Inspector of Taxes at Lord Alexander House, Waterhouse Street, Hemel Hempstead.

The Inspector will make an assessment of tax allowances and issue a notice of coding in appropriate cases. The tax codes received from the Inspector will be used in the calculation of tax payable on the allowances.

The Inland Revenue has recently introduced a new system of Self Assessment for taxation purposes and some members may receive a tax return to complete in respect of allowances received. Further information can be obtained from the Payroll Manager, Financial Services.

#### (2) National Insurance

(a) Some Councillors will be liable for National Insurance contributions on their allowances. The main provisions of the National Insurance rules are as follows:

- (i) Contributions are calculated on a **monthly basis** according to the total amount of allowances payable in the month.
- (ii) Contributions are not due where the allowances payable total less than £265 in a month.
- (iii) Married women and certain widows who have other employment in respect of which they have exercised their right not to pay the full national insurance contribution and have obtained an exemption card (see (c) below) will be liable to pay at the lower rate of 3.85% on the total allowance payable.
- (iv) Certain members who are retired for national insurance purposes, or who do not satisfy the conditions for retirement pension will **not** have to pay any contributions (see (c) below).

- (v) All other members will have to pay contributions at the full rate when the total allowance payable in any month is £265 or more.
  - (vi) Each employment has to be treated separately for contribution purposes and no account is taken of membership of another authority or other employment.
  - (vii) Contributions are payable only on the special responsibility and basic allowance and **not** on travelling and subsistence allowances, which are reimbursements of expenses.
- (b) Where a member considers that the 3.85% rate applies or that no contributions at all are payable (see sub-paragraphs (2) (a) (iii) and (iv) above), the Department of Health and Social Security at 1 Waterhouse Street, Hemel Hempstead should be contacted. If the Department of Health and Social Security confirm entitlement of such a concession, they will issue a card to that effect, which should be forwarded to the Director of Finance as soon as possible. Contributions at the full rate will be payable until a card is received, and this may, of course, necessitate a retrospective adjustment. It is, therefore, in a member's own interest and helpful to the Finance Department for the advice of the Department of Health and Social Security to be obtained without delay.
- (c) If a member has other employment which is subject to deduction of National Insurance contributions, the joint contributions for all employment may exceed the maximum annual rate. If this should happen, the member will receive a repayment claim form from the Department of Health and Social Security after the end of the tax year and a refund will be made.

#### **4. EXPLANATORY NOTES**

"Financial Year" means the period 1 April to 31 March inclusive.

"Council year" means the period between one annual meeting of the Council and the next.

"Council cycle" means the period between one ordinary meeting of the Council and the next. (An annual meeting shall be taken to be an ordinary meeting for this purpose.)

All claim forms and other forms can be obtained from the Members Support Services Section of the Chief Executive's Department. The persons to contact at the Dacorum are:

Mark Brookes – Assistant Director Legal and Democratic Services Tel 01442 228222  
 Glenda Braggins - Lead Client Officer - Payroll Tel 01442 228283

## APPENDIX A

### SPECIAL RESPONSIBILITY ALLOWANCE 2023/24

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

The Basic Allowance payable to all members for 2023/24 is £6120.

Role	BA Multiplier	SRA 2023/24	Number payable	Total Cost
Leader	3	18,360	1	18,360
Cabinet members* (see note 6.3 above)	2	12,240	*6	67,260
Cabinet Support Officer	1	6,120	1	6,120
Chairman of Development Control Committee	1	6,120	1	6,120
Chairman of Licensing and Health and Safety Enforcement Committee	1	6,120	1	6,120
Chairman of Licensing and Health and Safety Enforcement Sub Committee	0.5	3,060	1	3,060
<b>Or, and only if this allowance is unclaimed,</b> Vice Chairman of Licensing and Health and Safety Enforcement Committee				
Chairman of Appeals Committee	1	6,120	1	6,120
Vice Chairman of Appeals Committee	0.5	3,060	1	3,060
Chairman of Audit Committee	1	6,120	1	6,120
Chairman of Overview and Scrutiny Committees	1	6,120	3	18,360
Vice Chairmen of Overview and Scrutiny Committees	0.5	3,060	3	9,180
Vice Chairman of Development Control Committee	0.5	3,060	1	3,060
Chairman Standards Committee	0.25	1,530	1	1,530
1 <sup>st</sup> Opposition Group Leader	1.25	7,650	1	7,650

- No member is allowed to draw more than one SRA at any one time.

<b>Mayor/Deputy Mayor</b>		
Mayor's Salary and Allowance	1	£9,481
Deputy Mayor's Salary	1	£1,775



# Strategic Leadership Team (SLT) and Corporate Leadership Team (CLT)



Chief Executive  
Claire Hamilton

Leadership Support Manager  
**Rekha Mistry**  
Management of the PA function across the Council.

## Strategic Leadership Team (SLT)



Strategic Director  
(Housing and Property Services\*)  
Darren Welsh



Strategic Director  
(Neighbourhood Operations)  
Stefania Horne



Strategic Director  
(Place)  
James Doe



Strategic Director  
(People and Transformation)  
Aidan Wilkie



Strategic Director  
(Corporate and Commercial Services)  
Catherine Silva Donayre

## Corporate Leadership Team (CLT)

### AD Housing Operations and Safe Communities

**Natasha Beresford**

- Head of Housing Operations **Oliver Jackson**
- Head of Safe Communities **Joshua Smith**

### AD Strategic Housing and Delivery **David Barrett**

- Head of Strategy, Quality and Assurance **Hannah Peacock**
- Head of Investment & Delivery **Julie Abbey-Taylor**

### AD Property Services \*\* **Mark Pinnell (Interim)**

- Head of Safe Homes **Ricky Lang**
- Head of Asset Management **Dan Thurlow**
- Head of Commercial Housing Contracts **Andrew Linden**
- Head of Property Services **Richard Rice**

### Head of Regulatory Services

**VACANT**

### Head of Environmental Services

**John Mootealoo**

### Head of Neighbourhood Management

**Ian Ross**

### Head of Corporate Health, Safety and Resilience

**Martin Kirk**

### AD Planning

**VACANT**

### • Head of Development Management

**Philip Stanley**

### AD Place, Communities and Enterprise

**Diane Southam**

### • Head of Arts and Culture

**Diana Houghton**

### • Head of Communities and Leisure

**Chris Fennell**

### • Head of Place and Enterprise

**Caroline Saunders**

### AD People

**Matt Rawdon**

### Head of Digital

**Yvonne Salvin**

### Head of Communications and Engagement

**Kelvin Soley**

### Head of Transformation

**Shaj Choudhury**

### Head of Commercial Development

**Ben Hosier**

### AD Legal and Democratic Services (MO)

**Mark Brookes**

### • Head of Legal and Democratic Services (Deputy MO)

**VACANT**

### Chief Finance Officer (S151)

**Nigel Howcutt**

### • Head of Financial Services (Deputy S151)

**Fiona Jump**

### • Head of Revenues and Benefits

**Chris Baker**

\* Responsible for compliance with the Consumer Standards

\*\*Responsible for Property Compliance

AD – Assistant Director



**Directorate:**  
**Housing and Property Services**  
(Page 1 of 2)



**Strategic Director**  
**Darren Welsh**  
[darren.welsh@dacorum.gov.uk](mailto:darren.welsh@dacorum.gov.uk)  
DD: 01442 228 823 (ext. 2823)

AD – Assistant Director



**AD Housing Operations and Safe Communities**  
**Natasha Beresford**  
[natasha.beresford@dacorum.gov.uk](mailto:natasha.beresford@dacorum.gov.uk)  
DD: 01442 228 840 (ext. 2840)



**AD Strategic Housing and Delivery**  
**David Barrett**  
[david.barrett@dacorum.gov.uk](mailto:david.barrett@dacorum.gov.uk)  
DD: 01442 228 252 (ext. 2252)

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**Head of Housing Operations**  
**Oliver Jackson**  
[oliver.jackson@dacorum.gov.uk](mailto:oliver.jackson@dacorum.gov.uk)  
DD: 01442 228 229 (ext. 2229)

**Services:**

- Tenancy Management
- Tenancy Sustainment
- Temporary Accommodation
- Housing Cleaning
- Housing Needs
- Supported Housing
- Service Charges
- Housing Income



**Head of Safe Communities**  
**Joshua Smith**  
[joshua.smith@dacorum.gov.uk](mailto:joshua.smith@dacorum.gov.uk)  
DD: 01442 228 584 (ext. 2584)

**Services:**

- Community Safety
- Anti-Social Behaviour (ASB)
- Homelessness Prevention
- Private Sector Housing
- CCTV



**Head of Strategy, Quality and Assurance**  
**Hannah Peacock**  
[hannah.peacock@dacorum.gov.uk](mailto:hannah.peacock@dacorum.gov.uk)  
DD: 01442 228 800 (ext. 2037)

**Services:**

- Strategy, Quality and Assurance Team



**Head of Investment & Delivery**  
**Julie Abbey-Taylor**  
[julie.Abbey-Taylor@dacorum.gov.uk](mailto:julie.Abbey-Taylor@dacorum.gov.uk)  
DD: 01442 228 679 (ext. 2679)

**Services:**

- Housing Development Team
- Strategic Housing, Investment & Regeneration Team



Directorate:  
Housing and Property Services  
(Page 2 of 2)



Strategic Director\*  
Darren Welsh  
darren.welsh@dacorum.gov.uk  
DD: 01442 228 823 (ext. 2823)

AD – Assistant Director  
  
\*Responsible for compliance with the Consumer Standards  
  
\*\*Responsible for Property Compliance



AD Property Services Mark Pinnell (Interim)  
mark.pinnell@dacorum.gov.uk  
DD: 01442 228 731 (ext. 2731)

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Head of Safe Homes  
Ricky Lang  
ricky.lang@dacorum.gov.uk  
DD: 01442 228424 (ext. 2424)

- Services:
- Compliance
  - Building Safety



Head of Asset Management\*\*  
Dan Thurlow  
dan.thurlow@dacorum.gov.uk  
DD: 01442 228479 (ext. 2479)

- Services:
- Asset Management
  - Planned and Adaptions
  - Responsive and Key to Key Management
  - Empty Homes
  - Lettings



Head of Commercial Housing Contracts  
Andrew Linden  
andrew.linden@dacorum.gov.uk  
DD: 01442 228263 (ext. 2263)

- Services:
- Commissioning and contracts
  - Commercial contracts (Housing)



Head of Property Services  
Richard Rice  
richard.rice@dacorum.gov.uk  
DD: 01442 228 435 (ext. 2435)

- Services:
- Valuation and Estates
  - Building Services





**Directorate:**  
**Neighbourhood Operations**



Strategic Director  
**Stefania Horne**  
[stefania.horne@dacorum.gov.uk](mailto:stefania.horne@dacorum.gov.uk)  
DD: 01442 228 957 (ext. 2957)

AD – Assistant Director



Head of Regulatory Services  
**Vacant**

- Services:
- Environmental Health
  - Operations and Public Health



Head of Corporate Health, Safety and Resilience  
**Martin Kirk**  
[Martin.kirk@dacorum.gov.uk](mailto:Martin.kirk@dacorum.gov.uk)  
DD: 01442 228 045 (ext. 2045 )

- Services:
- Corporate Health Safety and Resilience



Head of Environmental Services  
**John Mootealoo**  
[john.mootealoo@dacorum.gov.uk](mailto:john.mootealoo@dacorum.gov.uk)  
DD: 01442 228 027 (ext. 2027)

- Services:
- Fleet Services
  - Resources
  - Waste Development
  - Depot Services
  - Refuse and Recycling



Head of Neighbourhood Management  
**Ian Ross**  
[ian.Ross@dacorum.gov.uk](mailto:ian.Ross@dacorum.gov.uk)  
DD: 01442 228 979 (ext. 2979)

- Services:
- Clean Safe and Green
  - Parks and Open Spaces
  - Trees and Woodlands
  - Cemeteries and Bereavement services
  - Parking Services
  - Garage Services



# Directorate: Place



Strategic Director  
**James Doe**  
[james.doe@dacorum.gov.uk](mailto:james.doe@dacorum.gov.uk)  
DD: 01442 228 583 (ext. 2583)

AD – Assistant Director

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AD Planning  
**VACANT**

Services:

- Strategic Planning
- Infrastructure Planning and Developer Contributions



Head of Development Management  
**Philip Stanley**  
[philip.stanley@dacorum.gov.uk](mailto:philip.stanley@dacorum.gov.uk)  
DD: 01442 228 579 (ext. 2579)

Services:

- Development Management Majors and Minors
- Development Management Fast Track
- Development Management - Specialist Services:
  - Conservation
  - Business Support
  - Land Charges
  - Planning Enforcement



AD Place, Communities and Enterprise  
**Diane Southam**  
[diane.southam@dacorum.gov.uk](mailto:diane.southam@dacorum.gov.uk)  
DD: 01442 228 440 (ext. 2440)



Head of Arts and Culture  
**Diana Houghton**  
[diana.houghton@dacorum.gov.uk](mailto:diana.houghton@dacorum.gov.uk)  
DD: 01442 228 042 (ext. 2042)

Services:

- Arts and Culture Strategy and Events
- Old Town Hall Theatre
- Heritage
- Visitor Economy



Head of Communities and Leisure  
**Chris Fennell**  
[Chris.fennell@dacorum.gov.uk](mailto:Chris.fennell@dacorum.gov.uk)  
DD: 01442 228 223 (ext. 2223)

Services:

- Voluntary Sector and Community Partnerships
- Health and Wellbeing
- Leisure Contract, Sports and Active Living Strategy
- Adventure Playgrounds



Head of Place and Enterprise  
**Caroline Saunders**  
[Caroline.saunders@dacorum.gov.uk](mailto:Caroline.saunders@dacorum.gov.uk)

Services:

- Place Strategies
- Hemel Place Board
- Economic Development and Growth
- Inward Investment
- Maylands and Kylna Business Centres



**Directorate:**  
**People and Transformation**



Strategic Director  
**Aidan Wilkie**  
[Aidan.wilkie@dacorum.gov.uk](mailto:Aidan.wilkie@dacorum.gov.uk)  
DD: 01442 228 569 (ext. 2569)

AD – Assistant Director



AD People  
**Matt Rawdon**  
[matthew.rawdon@dacorum.gov.uk](mailto:matthew.rawdon@dacorum.gov.uk)  
DD: 01442 228 513 (ext. 2513)

Services:

- Human Resources
- Organisational Development
- Equality, Diversity and Inclusion



Head of Digital  
**Yvonne (Vonnie) Salvin**  
[yvonne.Salvin@dacorum.gov.uk](mailto:yvonne.Salvin@dacorum.gov.uk)  
DD: 01442 228 454 (ext. 2454)

Services:

- Business Systems
- ICT Service Provision
- Website Improvement



Head of Communications and Engagement  
**Kelvin Soley**  
[kelvin.soley@dacorum.gov.uk](mailto:kelvin.soley@dacorum.gov.uk)  
DD: 01442 228 504 (ext. 2504)

Services:

- Communications (Internal & External)
- Consultation and Engagement
- Press Office
- Corporate and Civic Events
- Filming



Head of Transformation  
**Shaj Choudhury**  
[shaj.choudhury@dacorum.gov.uk](mailto:shaj.choudhury@dacorum.gov.uk)  
DD: 01442 228 166 (ext. 2166)

Services:

- Performance and Policy
- Customer Services Unit
- Project Management Office
- Complaints
- Corporate Governance
- Sustainability



Directorate:  
Corporate and Commercial  
Services



Strategic Director  
Catherine Silva Donayre  
catherine.silvaDonayre@dacorum.gov.uk  
DD: 01442 228 332 (ext. 2332)

AD – Assistant Director

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Head of Commercial Development  
Ben Hosier  
ben.hosier@dacorum.gov.uk  
DD: 01442 228 215 (ext. 2215)

Services:

- Procurement
- Contract Management
- Commercial Development



AD Legal and Democratic Services  
(Monitoring Officer) Mark Brookes  
mark.brookes@dacorum.gov.uk  
DD: 01442 228 236 (ext. 2236)



Head of Legal and Democratic Services  
(Deputy Monitoring Officer)  
VACANT

Services:

- Legal
- Democratic Services
- Political and Mayoral Support
- Electoral Services
- Licensing
- Central Administration
- Information Security



Chief Finance Officer (S151)  
Nigel Howcutt  
nigel.howcutt@dacorum.gov.uk  
DD: 01442 228 662 (ext. 2662)



Head of Financial Services (Deputy S151)  
Fiona Jump  
fiona.jump@dacorum.gov.uk  
DD: 01442 228 162 (ext. 2162)

Services:

- Financial and Regulatory Accounting
- Financial Planning and Analysis
- Accounts Receivable and Income
- Payments Payroll and Right To Buy
- Insurance and Risk
- Corporate Anti-Fraud



Head of Revenues and Benefits  
Chris Baker  
chris.baker@dacorum.gov.uk  
DD: 01442 228 290 (ext. 2290)

Services:

- Council tax
- Business rates
- Council tax support
- Housing benefit
- Discretionary housing payments



## FINANCIAL REGULATIONS

Author	Fiona Jump, Head of Financial Services
Responsible Officer	Nigel Howcutt, Chief Finance Officer

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*Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper*



A clean, safe and enjoyable environment



Building strong and vibrant communities



Ensuring economic growth and prosperity



Providing good quality affordable homes, in particular for those most in need



Delivering an efficient and modern council

# Dacorum Borough Council Financial Regulations

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# Dacorum Borough Council Financial Regulations

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## **1. INTRODUCTION, GENERAL AND INTERPRETATION**

- 1.1.** Financial Regulations provide the framework for managing the financial affairs of the Council. They are approved by the Council and they apply to every Member and employee of the Council and to anyone acting on its behalf. All Members and employees must adhere to them at all times. Financial Regulations form part of the Council's constitution. Any changes to the Financial Regulations must be agreed by Council following their presentation to Audit Committee.
- 1.2.** The Chief Finance Officer is the Council's Section 151 Officer and is accountable to the Council for the financial regulations. The Head of Financial Services is the Council's Deputy Section 151 Officer. Where the Financial Regulations refer to the 'Section 151 Officer' this refers to either the 'Section 151 Officer' or the 'Deputy Section 151 Officer'. All Chief Officers are accountable to the Chief Finance Officer for compliance with these regulations. All officers with delegated responsibilities for undertaking financial responsibility are accountable to their Strategic Director for compliance with the Financial Regulations.
- 1.3.** Executive Members and Strategic Directors must maintain a written record where they have delegated decision-making to employees, including seconded employees. Where they have delegated or devolved decisions to other responsible employees, references to the Strategic Director in the regulations should be read as referring to those employees.
- 1.4.** 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, provides value for money and contributes to the Council's strategic aims.
- 1.5.** Should a breach of the Financial Regulations come to light it must be reported immediately to the Section 151 Officer. The Section 151 Officer is responsible for maintaining a continuous review of Financial Regulations and for submitting any additions or changes necessary to the full Council for approval. They are also responsible for reporting material breaches of the Financial Regulations to the Senior Leadership Team, the Cabinet or the Full Council as they consider appropriate. Disciplinary action can be taken for breaches of Financial Regulations.
- 1.6.** The Section 151 Officer is responsible for issuing advice and guidance to underpin Financial Regulations that Members, employees and others acting on behalf of the Council are required to follow.
- 1.7.** This document should be read and applied in conjunction with the Council's constitution and other internal regulatory documents forming part of the constitution.
- 1.8.** Throughout these Financial Regulations, where the words 'Strategic Director' and 'Director' appear in a departmental context, they refer also to the Chief

## Dacorum Borough Council Financial Regulations

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Executive. References are made to 'Heads of Service'. In these instances (and where Heads of Service report directly to Assistant Directors) Assistant Directors are responsible for ensuring that Heads of Service for their group of services have adequate arrangements in place and will also apply to Assistant Directors where they are directly responsible for functions or projects or where there is no Head of Service in post. The post of Chief Finance Officer is included within 'Assistant Directors' for the purposes of these Financial Regulations.

- 1.9.** The term 'current' as it applies in these Regulations shall mean the last approval given by Council, Cabinet or Strategic Director under delegated powers.
- 1.10.** The terms 'Chief Finance Officer' and 'Section 151 Officer' are synonymous in the current structure of the Council. If, at any time, that should cease to be the case, all duties, authorities and responsibilities assigned to the Chief Finance Officer in these Financial Regulations shall be interpreted as applying to the Section 151 Officer.



# Dacorum Borough Council Financial Regulations

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## Financial Regulation A: Financial Management

### Introduction

- A.1.** Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

### Committees of the Council

- A.2.** The functions and responsibilities of the full Council, the Cabinet, the Overview and Scrutiny Committees and Regulatory Committees are set out in Part 3 of the Council's constitution. The Council and all subsidiary bodies must have regard to financial regulations and procurement standing orders in the conduct of Council business.

### Statutory officers

#### Chief Executive

- A.3.** The Chief Executive, as Head of Paid Service, is responsible for the corporate and overall strategic management of the Authority as a whole. They are also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions.

#### Monitoring Officer

- A.4.** The Assistant Director Legal and Democratic Services is the Authority's designated Monitoring Officer, under Section 5 of the Local Government and Housing Act 1989. The role of the Monitoring Officer is set out in the Council's Constitution (Article 11).
- A.5.** They (together with the Section 151 Officer – see below) is responsible for advising the Portfolio Holder, Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the approved budget. Actions that may be 'contrary to the budget' include:
- a) initiating a new policy
  - b) taking, or failing to take action which will, or is likely to result in any defined budget for the current year being exceeded by a given value, determined by the Section 151 Officer
  - c) committing, or seeking to commit expenditure in future years above the approved level
  - d) causing the Council's total budgeted sum for either the Housing Revenue Account or the General Fund to increase by more than an amount specified by the Section 151 Officer in any one year.

Current values in relation to regulation A.5. are given at Annex A.

## Section 151 Officer

- A.6.** The Chief Finance Officer is the Council's designated Section 151 Officer. This post has statutory duties in relation to the financial administration and stewardship of the Council's financial affairs. These duties arise from Section 151 of the Local Government Act 1972 and subsequent legislation and cannot be overridden.
- A.7.** The functions of the Section 151 officer are defined in the Council's constitution (Article 11). In particular, they have responsibility for the administration of the financial affairs of the Council, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- A.8.** Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to the Cabinet, Council, and external auditor if the Council or one of its officers:
- (a) has made, or is about to make, a decision which involves incurring unlawful expenditure
  - (b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
  - (c) is about to make an unlawful entry in the authority's accounts.
- A.9.** Section 114 also requires the Section 151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally. The Head of Financial Services is the designated officer for this purpose.
- A.10.** The Act also requires the Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where it is necessary to carry out duties under S114.

## Strategic Directors

- A.11.** Strategic Directors are individually responsible for financial management within their own areas of responsibility and collectively for matters of corporate responsibility. In respect of Financial Regulations they have specific responsibilities for:
- a) Ensuring that Members of Cabinet and the relevant Overview and Scrutiny Committee(s) are advised of the financial implications of all proposals and that the financial implications have been agreed with the Section 151 Officer.
  - b) Consulting with the Section 151 Officer and seeking approval on any matter liable to affect the Council's finances materially before any commitments are incurred.

# Dacorum Borough Council Financial Regulations

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- c) Demonstrating the proper financial management and effective deployment of resources allocated to their respective services.
- d) Ensuring that all staff have access to a copy of Financial Regulations and that these are retained in a current state and ensuring that employees comply with them at all times.
- e) Ensuring that Assistant Directors, Heads of Service and other key personnel receive sufficient training to enable them to discharge their responsibilities under these Regulations, Procurement Standing Orders and related rules and procedures introduced from time to time.
- f) Ensuring that their Portfolio Holder and, as appropriate, the Portfolio Holder for Corporate and Commercial Services are advised of the financial implications of any proposals and that the financial implications have been agreed by the Section 151 Officer.
- g) Ensuring the financial probity and correctness of all reports, advice and opinions submitted to Members and others that may act on such information. Where they have any doubt in this regard, the Strategic Director must consult with the Section 151 Officer prior to issuing a report, providing advice or offering an opinion.
- h) Ensuring that the Section 151 Officer is consulted on and approves any proposal that may affect the ability of stand-alone financial systems and processes to be reconciled with any relevant corporate financial information system.
- i) Signing contracts on behalf of the Council which are not under seal.
- j) Ensuring that vouchers and other financial documents are not destroyed other than in accordance with the Council's Corporate Retention of Documents Policy.
- k) Maintaining a complete management trail allowing financial transactions to be traced from accounting records to source and vice versa.
- l) Ensuring that all financial systems' inputs are genuine, complete, accurate, timely and not previously processed.

## Management of in-year finances

**A.12.** Strategic Directors are responsible for effective financial management. To support them, the Council has specific policies relating to six key control areas:

- (a) **Transfer of budgets.** Council sets the budget and Cabinet has executive responsibility for the delivery of services within budgets. Resources are allocated to defined budget headings which are managed by budget managers (usually allocated at Head of Service or Assistant Director

## Dacorum Borough Council Financial Regulations

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level). A scheme of virement is required to enable budget holders to transfer resources between budgets where appropriate and necessary. The Council is responsible for approving a scheme for enabling virement. This is set out in regulation B.11.

- (b) **Use of contingencies.** When approving the annual budget the Council may set aside specific sums to meet unforeseen eventualities.
- (c) **Supplementary budgets.** Strategic Directors are responsible for arranging the effective delivery of services within the annual budgets allocated. Under circumstances where it cannot be dealt with under the Council's scheme of virement, and where appropriate, Cabinet, on the advice of the Section 151 Officer, may grant a supplementary budget to be met from any contingency provision established under section A12.b above. Where insufficient resources exist, Cabinet may, on the advice of the Section 151 Officer, seek Council approval to the granting of a supplementary budget to be met from relevant balances or reserves. This is set out in regulation B.12.
- (d) **Supplementary budgets: section 106 and Community Infrastructure Levy (CIL) Contributions.** Council sets the budget and Cabinet has executive responsibility for the delivery of services within budgets. Delegation is given to the Section 151 Officer for in-year amendments to budgets via supplementary budget where a one-off item is to be funded wholly from Section 106 receipts or CIL receipts. This is set out in regulation B.12.
- (e) **Supplementary budgets: grant income.** Delegation is given to the Section 151 Officer for in-year amendments to budgets via supplementary budget where expenditure is to be funded wholly from grant receipts, up to the value of £100k. For expenditure equal to or above £100k Cabinet may, on the advice of the Section 151 Officer, seek Council approval to the granting of a supplementary budget to be met from grant funding. This is set out in regulation B.12
- (f) **Under- and overspends.** The Council is responsible for agreeing any procedures, on the advice of the Section 151 Officer, for carrying forward under- and overspending against revenue budgets. The unspent portion of budgets will be transferred by the Section 151 Officer to Reserves and Balances after the year end. The unspent portion of budgets will not be carried forward to the following year's service budgets without the express authority of Council which decision shall be made on the advice of the Section 151 Officer. This function has been delegated to the Audit Committee as part of the review and approval of the annual Statement of Accounts. The Section 151 Officer will report to Cabinet as soon as is practicable after the year end on which budgets have underspent and which budgets have overspent, together with the net position. Cabinet will make recommendations to the Audit Committee who carry out this function on behalf of Council as part of their responsibility for review of the preparation of the Statement of Accounts. Cabinet and Audit Committee

## Dacorum Borough Council Financial Regulations

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will take account of the advice of the Section 151 Officer on how any net overspend should be funded.

- (g) **Urgency.** Nothing in these Financial Regulations shall preclude expenditure being incurred where an emergency or disaster involving destruction of, or danger to, life or property occurs, or is imminent, that may not be contained within the totality of budgets allocated to Strategic Directors. If, in the opinion of the relevant Director, in consultation, where possible, with the Chief Executive and the Section 151 Officer, the urgency of the situation will not permit delay, the Director may authorise such expenditure as is measured and reasonable in the circumstances. Where a Director has had to act without having been able to consult the Chief Executive and/or the Section 151 Officer, they shall be informed as soon as is practicable. Action under this Regulation shall be reported at the first opportunity to Cabinet and to the full Council.

### The Annual Report

- A.13.** The Audit Committee is responsible for approving the Annual Report and Statement of Accounts.

# Dacorum Borough Council Financial Regulations

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## Financial Regulation B: Financial Planning and Budgeting Policy Framework

### Introduction

- B.1.** These Financial Regulations apply to all plans and strategies within the Council's policy framework. Financial Regulations relating to budgets apply to General Fund and to Housing Revenue Account matters, and to both revenue and capital.
- B.2.** The Council is responsible for approving procedures for setting and varying budgets on the advice of the Section 151 Officer, for agreeing plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. The Council is also responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another (virement). Details of the virement scheme are provided under Regulation B.11.
- B.3.** The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council. Consideration of such matters will be on the advice of the Section 151 Officer.

### Corporate Governance

- B.4.** Budgeting and budgetary control forms an essential part of the overall governance arrangements of the Council. The full Council is responsible for agreeing corporate governance arrangements, its framework and policies and the budget. Within such timescale as may be laid down by statute the Audit Committee under delegated powers from the Council shall approve publication of the Annual Report and Statement of Accounts and the Leader and Chief Executive shall concurrently present a statement of compliance with the framework.

### Revenue budgeting and budgetary control

- B.5.** The Section 151 Officer is responsible for determining the format of the revenue budgets and ensuring that they are prepared on an annual basis for consideration by the Cabinet, before submission to the Council in the fourth quarter of the financial year.
- B.6.** Strategic Directors, and their delegated representatives, are responsible for ensuring that budget estimates reflect agreed service plans and comply with the budget guidance issued by the S151 Officer which will take account of the Council's approved Medium Term Financial Strategy. The submitted budgets will be scrutinised and endorsed by appropriate Members including Portfolio Holders. These will be collated by the S151 Officer for submission to a combined meeting of the Overview and Scrutiny Committees to scrutinise the draft budget, prior to submission to Cabinet.

# Dacorum Borough Council Financial Regulations

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- B.7.** Strategic Directors, Assistant Directors and Heads of Service are responsible for controlling income and expenditure within their area, taking account of financial information provided by the Section 151 Officer, as well as supplementary local information systems. Each Director shall ensure that all expenditure committed by his/her directorates is within a revenue, capital, or other budget approved by Council. Any potential expenditure or loss of income, which cannot be funded from within the totality of the service budget, supported by the approved scheme of virement, shall be reported to the Section 151 Officer as soon as this is anticipated by the Director.
- B.8.** Detailed regulations relating to revenue budgeting and budgetary control are set out in Annex B, section 1.

## Capital plans and budgets

- B.9.** The Section 151 Officer is responsible for ensuring that a rolling 5 year Capital Programme is prepared on an annual basis for consideration by Cabinet and submission to the Council as part of its annual budget-setting process, and that capital and revenue budgets are fully integrated. Detailed regulations governing capital budgeting are set out in Annex B, section 2.

## Maintenance of reserves

- B.10.** Under the Local Government Act 2003, the Section 151 Officer must advise the Cabinet and/or the Council on prudent levels of reserves and balances. The Section 151 Officer will prepare, keep under review and present to Cabinet, at least annually, a strategy for the Council's reserves that provides a justification for each earmarked reserve, together with a recommended minimum level of general (un-earmarked) reserves. Consideration of these issues will include the application of risk management processes.

## Scheme of virement

- B.11.** To support Strategic Directors, Assistant Directors and Heads of Service to fulfil their responsibilities under Regulation B.7, the transfer of funds between budget lines is permitted, subject to approval, where this supports sound financial management. The Virement policy is set out in Annex B, section 3 and applies to all transfers of budget, of any value and for any reason, including for reasons of organisational restructure.

## Scheme of supplementary budgets

- B.12.** To support Strategic Directors, Assistant Directors and Heads of Service to fulfil their responsibilities under Regulation B.7, under circumstances where these responsibilities cannot be dealt with under the Council's scheme of virement, a supplementary budget may be granted, subject to appropriate approval, where this supports sound financial management. The supplementary budgets policy is set out in Annex B, section 4 and applies to all supplementary budgets, of any value and for any reason.

# Dacorum Borough Council Financial Regulations

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## Financial Regulation C: Risk Management and Resource Control

### Introduction

- C.1.** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council and for identifying and evaluating significant opportunities for development. This should include the proactive participation of all those associated with planning and delivering services.

### Risk and opportunity management

- C.2.** The Cabinet is responsible for approving amendments to the Council's risk management strategy and for reviewing the effectiveness of the Council's risk management practices. It is also responsible for ensuring that proper insurance exists where appropriate.
- C.3.** The Section 151 Officer is responsible for preparing the authority's risk management strategy, for ensuring that there is proper management of risk throughout the Council, and for advising the Cabinet on proper insurance cover or alternative arrangements.

### Maintaining internal control

- C.4.** Internal control refers to the management processes and systems of control devised by management and endorsed by Members to help ensure that the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources, safeguards the Council's assets and interests and enables the Council to take advantage of opportunities. The operation of sound internal control is an essential component of good corporate governance.
- C.5.** The Section 151 Officer is responsible for advising on effective systems of internal control. Strategic Directors are responsible for establishing sound arrangements for safeguarding public funds by planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness, and for achieving their personal and service based financial and outcome performance targets.
- C.6.** Effective internal control is supported by policies relating to:
- i) Audit arrangements
  - ii) Preventing and detecting fraud and corruption
  - iii) Securing assets
  - iv) Treasury management.

Detailed regulations governing these policies are set out in Annex C, section 1.



## Staffing Arrangements

- C.7.** A staff structure is required to provide support to the Cabinet, the Council and the Committees of the Council for the conduct of business. The Chief Executive, as Head of Paid Service, is responsible for determining how officer support for Cabinet and non-Cabinet roles within the authority will be organised in line with hierarchy of the authorisations specified in Annex C, Clause 2.g. The Chief Executive is responsible for providing overall management to staff and for ensuring that there is proper use of the evaluation or other agreed systems for determining remuneration of employment.
- C.8.** Detailed responsibilities and regulations governing staffing arrangements are set out in Annex C, section 2. This section includes arrangements relating to:
- i) The staffing structure.
  - ii) Consultants.

# Dacorum Borough Council Financial Regulations

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## Financial Regulation D: Income and Assets

### Introduction

**D.1.** The Council has many systems and procedures relating to the control of the authority's assets. These include purchasing, costing and management systems. Each must contain effective controls to ensure that all transactions are recorded and properly processed, and that errors are detected promptly.

### General Responsibilities

**D.2.** The Section 151 Officer is responsible for the sound and proper operation of the authority's accounting systems, the form of accounts and supporting financial procedures and records. Any changes proposed to be made by Strategic Directors to their existing financial systems or the establishment of new systems must be approved beforehand by the Section 151 Officer.

**D.3.** Strategic Directors are responsible for ensuring that:

- a) there is the proper operation of financial processes within their Directorate
- b) data exists to enable them to plan, formulate and deliver the Council's objectives, targets and budgets
- c) performance is communicated to relevant managers on an accurate, complete and timely basis
- d) intelligence exists to warn of potential deviations from targets, plans and budgets requiring management attention
- e) systems and procedures are fully documented and operate effectively and securely
- f) staff receive relevant financial training approved by the Section 151 Officer.

**D.4.** Strategic Directors shall maintain a scheme of delegation identifying officers authorised to act on their behalf on financial matters. A copy of this, together with specimen signatures shall be supplied to the Section 151 Officer. A copy of the scheme of delegation is attached at Annex D to these regulations.

### Accounting for Income

**D.5.** Effective income collection systems are necessary to ensure that all revenues due to the Council are collected. Income can be vulnerable to loss. In order to maximise the Council's income, it is important that all income due is properly identified, collected, receipted, banked and recorded in accounting systems.

## Key controls and responsibilities

**D.6.** The Section 151 Officer and the Strategic Directors are responsible for the operation of the key controls governing the receipt of income and for ensuring that all due income is correctly recorded and received. Detailed responsibilities governing the collection of income are set out at Annex E, section 1. The Section 151 Officer shall review these responsibilities from time to time.

## Documentation and cash handling

**D.7.** In accordance with these regulations the Section 151 Officer and Strategic Directors are responsible for securing the Council's assets. Cash due and held by the Council is vulnerable to loss and must be recorded, held, processed and banked securely. Detailed requirements governing documentation and record keeping relating to Council income, for handling cash and cash held for third parties, are set out in Annex E, Section 2.

## Banking and investment arrangements

**D.8.** The Section 151 Officer shall:

- a) Make arrangements for all banking services.
- b) Ensure that surplus cash is systematically invested on a daily basis consistent with the Council's Treasury Management Strategy.
- c) Ensure all cheques or other financial instructions issued on behalf of the Council bear the impression or manuscript signature of an authorised officer, in accordance with the counter-signature hierarchy specified in Annex G, Clause 1.f.
- d) Be responsible for the ordering and control of cheques and similar secure stationery, and make sound arrangements for the safe custody of cheque stocks, and the control and reconciliation of those issued.
- e) Make secure arrangements for the telephonic and electronic transmission of payments and receipts, including the application of effective internal controls to mirror those set out above.

**D.9.** Strategic Directors are responsible for ensuring that their staff comply with all guidance and instructions issued by the Section 151 Officer in this regard.

## Petty Cash, Change Floats, and Electronic Purchasing Card Payments

**D.10.** The Council's resources may be held as cash only where there is a business need. Any cash holdings must be authorised by the Section 151 Officer who will review the need for such cash holdings periodically and may, at his/her discretion, in consultation with Strategic Directors, withdraw or alter the size of cash holdings. Detailed regulations governing cash, change floats and electronic purchasing cards are set out in Annex E, section 3.

# Dacorum Borough Council Financial Regulations

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## Debt collection

- D.11.** The invoicing, collection and enforcement of Sundry Income is the responsibility of the Chief Finance Officer who shall initiate proceedings to recover monies owing to the Council in an expeditious manner. The Section 151 Officer will ensure that there are recovery procedures for all debts due and which have remained unpaid. These will take place automatically.
- D.12.** Where a debtor is also a creditor to the Council, the amount due to the Council shall be deducted from amounts payable by the Council where, in the opinion of the Chief Finance Officer such a course would seem to be more expeditious and/or cost effective than recovery action through the courts.

## Bad debts and unclaimed credits

- D.13.** Where recovery processes have been fruitless and the debt has become irrecoverable, it will be written off. The procedure to be followed for writing off bad debts is set out at Annex E, section 4.
- D.14.** Where unclaimed credits are held within the Council's accounts, they may be considered for write on. The procedure to be followed for writing on unclaimed credits is set out at Annex E, section 4.

## Stocks and stores and minor assets

- D.15.** Stocks and stores represent short term assets of the authority and are therefore subject to the same general regulations applying to other assets and cash holdings. Detailed regulations and responsibilities for managing stocks and stores are set out in Annex E, section 5.

## Trading Accounts/Business Units

- D.16.** The Section 151 Officer is responsible for advising on the establishment and operation of trading accounts and business units.
- D.17.** Strategic Directors shall take advice from the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. Such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- D. 18.** All officers must observe statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income and expenditure, including full overhead costs are charged, and to produce an annual report in support of the final accounts.
- D.19.** Strategic Directors must ensure that the appropriate accounting principles are applied to trading accounts as advised by the Section 151 Officer. Each internal trading unit shall prepare an annual business plan.

# Dacorum Borough Council Financial Regulations

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**D.20.** Cabinet shall approve the Council's banking and brokering arrangements, and authorised signatories on the advice of the Section 151 Officer.

## Document retention – general

**D.21.** Hard copy documentation or electronic media admissible by the Courts created or maintained for transactions covered by these Financial Regulations or the Council's Procurement Standing Orders shall be retained for a period not less than 6 years after the transaction/ project ceases to be current and/or the financial year to which it relates. For more specific guidance please refer to the Retention Schedule.

**D.22.** All quotations (including unsuccessful ones) obtained for orders made in accordance with these Financial Regulations shall be retained for not less than the current year plus one.

## Disposal of Assets (including Stocks and Stores)

**D.23.** As a public authority the Council should, in the disposal of its landholdings and other assets, always seek to obtain the best price reasonably obtainable, in terms of money or monies worth, unless it is absolved from this duty by statute, regulation or other lawful authority. If in the particular case of any disposal these rules cannot be followed in such a way as to ensure both propriety and optimum value, the matter must be reported to the Cabinet by the Chief Finance Officer for authority to proceed in a different way.

**D.24.** Detailed regulations governing the disposal of assets are set out in Annex F. The annex covers detailed regulations concerning the disposal of:

- Land
- equipment
- scrap and ICT equipment
- major reusable items
- investments
- intangible assets.

# Dacorum Borough Council Financial Regulations

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## Financial Regulation E: Expenditure, Liabilities and Procurement of, Ordering, and Paying for Works, Goods, Services and Assets

### Introduction

- E.1** The Council has a duty to manage and spend public money with due regard to probity and in accordance with the Council's policies. All staff and Members of the Council are required to comply with the Council's procurement policies and procedures, as set out in Procurement Standing Orders. In particular, every officer and Member of the Council must advise the Monitoring Officer of any real or perceived links or personal interests they may have with purchasers suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council.
- E.2.** Procurement Standing Orders are supplemented by detailed regulations governing the day-to-day ordering of works, goods and services. These are provided in Annex G, section 1.
- E.3.** The Chief Finance Officer is responsible for reporting to the Cabinet not less than twice each financial year on the exercise of his/her delegated powers. One such report will comprise an annual report on procurement for presentation within the following financial year.
- E.4.** It is the responsibility of Strategic Directors to ensure that a proper scheme of delegation has been established for the procurement, certification and authorisation of payment within their area, and to take steps periodically to test that the scheme is operating effectively. Further detailed responsibilities of the Section 151 Officer and Strategic Directors in respect of the regulations governing ordering and paying for works, goods and services are set out in Annex G, section 2.
- E.5.** All acquisitions of assets by the Council, as defined in Annex F, must comply with the detailed regulations set out in Annex G, section 5.

### Contract arrangements

- E.6.** All contracts with a value in excess of the amount specified in Annex G, section 3, are subject to the provisions contained in the Council's Procurement Standing Orders. No tender shall be accepted and no contract shall be entered into until all of the requirements of Procurement Standing Orders as well as all necessary approvals, sanctions and consents have been obtained. Prior to letting a contract, Officers must ensure that they have the necessary delegated authority to proceed and there is sufficient budget provision in place.
- E.7.** For all contract in excess of the value specified in Regulation E.6, the Section 151 Officer will be responsible for:
- a) Arranging payment in accordance with the contract terms or Council's scheme for prompt payment.

# Dacorum Borough Council Financial Regulations

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b) Examining, at his/her discretion, and making such enquiries as may be necessary to satisfy him/herself as to the fairness and accuracy of the accounts.

**E.8.** The Assistant Director Legal and Democratic Services shall consider all claims, which appear not to clearly fall within the scope of the primary contract with a view to determining liability. They will consult with the Section 151 Officer on any financial consideration before settlement is reached.

**E.9.** Detailed responsibilities of Strategic Directors in relation to contracts are set out in Annex G, Section 3.

## Engagement of, and Payments to, Employees

**E.10.** The Chief Executive, as Head of the Paid Service, has overall responsibility for ensuring that all staff emoluments and entitlements are approved for all current employees. The Section 151 Officer is responsible for calculating emoluments and entitlements and for ensuring that all payments are timely and accurate.

**E.11.** Detailed responsibilities of the Section 151 Officer and Strategic Directors in respect of engagement of, and payment to, employees are set out in Annex G, section 4. In particular, no advances of pay shall be made without the express agreement of the Section 151 Officer. Any advances of pay that are made shall be effected through the Council's payroll system unless determined otherwise by the Section 151 Officer.

## Payments to Members

**E.12.** The Section 151 Officer is responsible for the payment of allowances and other sums due to Members in accordance with the Council's Members' Allowances Scheme, and best practice nationally.

**E.13.** The Section 151 Officer is responsible for implementing the provisions for Members' travel and subsistence contained in the Members' Allowances Scheme.

## Taxation

**E.14.** The Section 151 Officer is responsible for managing the Council's tax affairs, approving systems and processes where in the opinion of the Section 151 Officer they may have a significant impact on the Council's tax position, and advising Strategic Directors on all taxation issues affecting the authority. They are also responsible for maintaining the authority's tax records, making all tax payments by the due dates, receiving tax credits and submitting tax returns by their due date as appropriate.

**E.15.** Strategic Directors are responsible for ensuring that the correct amount of VAT is paid and/or collected on rateable purchases and supplies, in accordance with guidance issued by the Section 151 Officer, and for making proper

# Dacorum Borough Council Financial Regulations

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arrangements to administer the correct tax liabilities for contractors engaged in construction and maintenance works.



# Dacorum Borough Council Financial Regulations

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## Financial Regulation F: External Arrangements

### Partnerships

- F.1.** For the purpose of the Regulations a partnership is defined as a joint working arrangement between otherwise independent bodies that:
- a) agree to co-operate to achieve a common goal
  - b) create new organisational structures or processes to achieve this goal separate from their own organisations
  - c) plan and implement a jointly agreed programme often with joint staff or resources
  - d) share relevant information
  - e) pool risks and rewards.

Service contracts that are described colloquially as “partnerships” are not partnerships for this purpose but are regarded as contracted services dealt with under procurement rules.

### Responsibilities and expectations

- F.2.** The Council requires that potential partners are aware of their responsibilities under the Authority’s Financial Regulations and the procurement requirements. When partnerships are developed, the partners shall agree on which financial regulations and standing orders shall apply as part of the governance arrangements for the partnership. The Council’s expectations regarding partnerships are set out at Annex H, section 1. These should be adapted and written into partnership governance documents, as appropriate.
- F.3.** The Council is responsible for considering, and where appropriate, approving the formation of any strategic partnership or any proposed change to existing external relationships, on the recommendation of the Leader of the Council.
- F.4.** The Chief Executive shall be the Council’s principal advisor and representative on partnership and external bodies. Further detailed responsibilities are set out in Annex H section 2.

### External funding

- F.5.** Where funding is due from external bodies the Section 151 Officer shall ensure that:
- (a) All funding due is received and properly recorded in the authority’s accounts.

## Dacorum Borough Council Financial Regulations

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(b) Match-funding requirements and obligations are considered prior to entering into any agreement, and that future revenue budgets reflect these requirements.

(c) Audit requirements are met.

**F.6** Further responsibilities in respect of external funding and providing works to third parties are set out in Annex H, Section 2.

## Annex A

### Monitoring Officer responsibilities – schedule of values

#### Regulation A.5.

Last updated: September 2015

The Assistant Director (Legal and Democratic Services) is the Authority's designated Monitoring Officer, under Section 5 of the Local Government and Housing Act 1989. They (together with the Section 151 Officer) are responsible for advising the Portfolio Holder, Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the approved budget. Actions that may be 'contrary to the budget' include:

- a) Initiating a new policy
- b) Taking, or failing to take action which will, or is likely to result in any defined budget for the current year being exceeded by an amount which in the view of the Section 151 Officer, taking into account all the circumstances at the time, is contrary or not wholly in accordance with the budget.
- c) Committing, or seeking to commit expenditure in future years above the approved level.
- d) Causing the Council's total budgeted sum for either the Housing Revenue Account or the General Fund to increase by more than the following amount in any one year (determined by the Section 151 Officer):

£100,000

## ANNEX B

### Financial Planning and Budgeting Policy Framework

#### Section 1: Budgeting and budgetary control

Regulation B.8

Last updated: September 2015

The Section 151 Officer shall determine the format of how budgets, revenue and capital, are presented and reported on. Revenue and capital budgets shall be submitted to Cabinet for consideration together and will be fully integrated and cross-referenced.

#### Section 1: Budget preparation

- 1.a)** The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet, before submission to the Council in the fourth quarter of the financial year. Fully-costed service budgets shall be prepared by the Section 151 officer in conjunction with the delegated budget holder. Budgets proposed to Cabinet should include allocations to each service and projects (where appropriate), proposed taxation levels and contingency funds (where appropriate). Such budgets will be in accordance with the Council's Medium Term Financial Strategy, will include revenue projections covering three years and capital projections covering five years, and will include appropriate risk management processes in their compilation.
- 1.b)** It is the responsibility of Strategic Directors, and their delegated representatives, to ensure that budget estimates reflect agreed service plans and are scrutinised and endorsed by appropriate Members including Portfolio Holders and relevant Overview and Scrutiny Committees, prior to collation by the Section 151 Officer for submission to Cabinet.
- 1.c)** The budget submission for the coming year shall show in respect of each defined item of income and expenditure:
  - i) the original estimate and any revised estimate for the current year
  - ii) the actual outturn for the previous year
  - iii) estimates for the coming year with appropriate explanation of any significant issues or variations anticipated in the future.

In relation to i.) above the responsible Director, or the Section 151 Officer, shall report on any material variations.

## Dacorum Borough Council Financial Regulations – Annex B

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- 1.d)** The Cabinet shall consult with stakeholders and Overview and Scrutiny Committee(s) and make amendments as thought fit (subject to the advice of the Section 151 officer), prior to recommending appropriate budgets to Council.
- 1.e)** Changes to the Budget which increase the Council's total expenditure and require either the use of the Council's general reserves or increased borrowing must be referred by the Section 151 Officer to the Cabinet for consideration before being referred to the full Council for approval.

### **Budget monitoring and control**

- 1.f)** In order to enable budgets to be monitored effectively, the Section 151 Officer will provide appropriate financial information to Strategic Directors, Assistant Directors and Heads of Service. The Section 151 officer will monitor expenditure and income against budget, and will report to the Senior Leadership Team on the Council's financial position against its budget on a monthly basis, and to Cabinet on a quarterly basis. This quarterly report will include the detailed actual position in comparison to the budget for the year, projected outturn position for the end of the year, and any proposed action to be taken to deal with any variances. The report will show performance against individual detailed service budgets and also on a subjective basis.
- 1.g)** Strategic Directors shall make appropriate arrangements, subject to these having been approved by the Section 151 Officer, to process all income and expenditure in a timely manner and charge it to an appropriate account code, so that information, and interpretations thereof, provided in accordance with clause 1.f above fairly reflects the true position.
- 1.h)** It is the responsibility of Strategic Directors, Assistant Directors and Heads of Service to control income and expenditure within their area, taking account of financial information provided by the Section 151 Officer, as well as supplementary local information systems. Each Director shall ensure that all expenditure committed by their directorates is within a revenue, capital, or other budget approved by Council. Any potential expenditure or loss of income, which cannot be funded from within the totality of the service budget, supported by the approved Scheme of Virement shall be reported to the Section 151 Officer as soon as this is anticipated by the Director.
- 1.i)** The inclusion of items in approved revenue or capital budgets shall constitute approval to incur expenditure, subject to compliance with Procurement Standing Orders or other requirements included within these Regulations.

### **Section 2: Capital plans and budgets**

Regulation B.9

Last updated: December 2019

## Preparation and approvals

- 2.a)** The Section 151 Officer is responsible for ensuring that a rolling 5 year Capital Programme is prepared on an annual basis for consideration by Cabinet and submission to the Council as part of its annual budget-setting process, and that capital and revenue budgets are fully integrated.
- 2.b)** The Programme will be informed by the Council's Capital Strategy and Medium Term Financial Strategy and by such capital and revenue resources as the Section 151 Officer recommends be made available over the Programme period.
- 2.c)** The Section 151 Officer, in conjunction with Strategic Directors, will prepare and submit to Cabinet the estimates of capital payments planned to be incurred in the ensuing years. Capital estimates will be integrated with and cross-referenced to revenue budget estimates.
- 2.d)** The Capital Programme submitted to Cabinet for consideration will include the total sum set aside for capital projects in the year under consideration and for future relevant years, together with details of individual projects being submitted for approval. The Capital Programme submitted to Cabinet will also include details of and provision for capital schemes already approved and in progress from previous years. Projects will be considered for inclusion within the Capital Programme in accordance with the arrangements set out in the Capital Strategy.
- 2.e)** So far as is possible, all new schemes for the coming year will be identified in the budget report. Any subsequent new schemes will be approved by Cabinet within the total made available for capital schemes. Cabinet may ringfence sums of capital, or agree schemes in principle, with release of detailed sums delegated to the Portfolio Holder for Corporate and Commercial Services if it considers it appropriate.

## Section 3: Scheme of virement

Regulation B.11

Last updated: October 2021

- 3.a)** Virement is an in-year mechanism for formally determining and seeking agreement to the transfer of funds from one approved budget heading to another. The Virement policy set out below applies to all transfers of budget, of any value and for any reason, including for reasons of organisational restructure.
- 3.b)** No virement has been carried out unless it has been done in accordance with these Regulations, has been approved by the Section 151 Officer and is recorded in a register maintained by him/her, and the Council's corporate Financial Management Information System has been updated accordingly. The

recording of an approved virement does not alter the original budget approved before the start of the year.

- 3.c)** The rules on virement apply to revenue and to capital and to all accounts under the Council's control.
- 3.d)** A virement cannot increase nor decrease the total amount of budget resource available: the net effect of all virements must be nil.

### Levels of authority

- 3.e)** A hierarchy of authorities is required to determine the type and level of virement that may be authorised by committees and officers of the Council. This is given in the **Schedule of Authorisations, item 1**.
- 3.f)** In no instance should a virement be considered where approval would have the effect, or be seen to have the effect of frustrating, circumventing or amending the Council's policies or budget framework. Proposals for any new capital or revenue scheme, new sources of income, and significant variation in approved charges shall be considered by Cabinet and, if appropriate, Council.

### Principles of application

- 3.g)** The proposed virement must be for a purpose or budget previously approved by Council. Sufficient funds must remain in the transferor budget to meet all remaining commitments for the year. "Transferor budget" in this context refers to individual line budgets and not to the total budget for the service.
- 3.h)** Subject to being over-ridden by a higher authority, no virement shall take place without the agreement of the transferor.
- 3.i)** In seeking approval for a revenue virement, it must be specified whether a virement is one- off in nature (impacting current year budgets only) or represents a permanent change (affecting current and all future year budgets). Capital virements may only be one- off in nature.
- 3.j)** Any proposed transfer of funding to 'employee' budgets must not increase total employment costs beyond the current year. Employment cost for this purpose shall include payments to and for staff, agency and other temporary engagements, and overtime.
- 3.k)** Where not specifically budgeted for within a scheme or project, consultancy and agency staff fees shall be deemed to be included within 'employee' costs for the purpose of this scheme.
- 3.l)** Budgets for central and departmental recharges, asset rents, depreciation, interest receivable, capital receipts / charges, and similar corporate 'accounts' are excluded from this scheme.

## Section 4: Scheme of supplementary budgets

Regulation B.12

Last updated: December 2019

- 4.a)** Supplementary budgets are an in-year mechanism for formally determining and seeking agreement to the increase of a budget heading to be wholly funded by a specific funding sources, usually, existing reserves, s106 receipts, CIL receipts or grant funding. The supplementary budgets policy set out below applies to all supplementary budgets, of any value and for any reason.
- 4.b)** No supplementary budget has been carried out unless it has been done in accordance with these Regulations, has been approved by the Section 151 Officer and is recorded in a register maintained by him/her, and the Council's corporate Financial Management Information System has been updated accordingly.
- 4.c)** The rules on supplementary budgets apply to revenue and to capital and to all accounts under the Council's control.

### Levels of authority

- 4.d)** A hierarchy of authorities is required to determine the type and level of supplementary budget that may be authorised by committees and officers of the Council. This is given in the **Schedule of Authorisations, item 2**.
- 4.e)** In no instance should a supplementary budget be considered where approval would have the effect, or be seen to have the effect of frustrating, circumventing or amending the Council's policies or budget framework. Proposals for any new capital or revenue scheme, new sources of income, and significant variation in approved charges shall be considered by Cabinet and, if appropriate, Council.

### Principles of application

- 4.h)** The supplementary budgets must not commit expenditure in any following year. Base budgets for the following year(s) shall be 're-set' to exclude any supplementary budget made.
- 4.i)** Any proposed supplementary budgets altering 'employee' budgets must not increase total employment costs beyond the current year. Employment cost for this purpose shall include payments to and for staff, agency and other temporary engagements, and overtime.
- 4.j)** Where not specifically budgeted for within a scheme or project, consultancy and agency staff fees shall be deemed to be included within 'employee' costs for the purpose of this scheme.



## ANNEX C

### Risk Management and Resource Control

#### Section 1: Maintaining internal control

Regulation C.6

Last updated: December 2019

#### Audit arrangements

- 1.a)** The Accounts and Audit Regulations 2015, require every local authority to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes. The Chief Finance Officer has the responsibility to ensure that the Internal Audit Contractor independently reviews and reports formally to the Audit Committee on the adequacy and effectiveness of the Council's control environment.
- 1.b)** The Section 151 Officer shall maintain an adequate and effective system of internal audit of all accounting, financial and other operations of the Council, and in particular shall arrange, either directly or through an Internal Audit service provided under contract, for the examination, review and appraisal of:
- i) the soundness, adequacy and application of internal controls
  - ii) the safeguards applied to Council assets to protect them from loss, theft, fraud, waste, inefficiency, extravagance, or poor value for money
  - iii) the suitability and reliability of financial and other management information
  - iv) compliance with rules, regulations, legislation, policy and procedures.
- 1.c)** The Chief Finance Officer shall be responsible for ensuring that an annual report is prepared setting out:
- i) an opinion on the overall adequacy and effectiveness of the Council's control environment
  - ii) disclosure and qualifications to that opinion
  - iii) a summary of the audit work undertaken, and
  - iv) any issues that are relevant to the preparation of the Annual Governance Statement. This shall be submitted to the Audit Committee as soon as is practicable after the end of the year to which it relates.

- 1.d)** Internal Audit staff have specific authority to access appropriate Council personnel, correspondence and data at any time. Details of these powers are set out in the contract with the Internal Audit provider.

### **Preventing and detecting fraud and corruption**

- 1.e)** The Section 151 Officer is responsible for the development and maintenance of an anti-fraud, anti-corruption and whistleblowing policies. The Monitoring Officer shall be advised in any instance where a member may be implicated.
- 1.f)** The Section 151 Officer shall be notified immediately by the relevant Strategic Director of any suspected irregularity:
- i) concerning income, expenditure, cash, stores or other property of the Council
  - ii) in the exercise of the functions of the authority that may appear to place an officer(s) or member(s) under suspicion of obtaining financial benefit, directly or indirectly, as a result of the exercise of any Council function with which they are associated.

Where notification has been received, the Section 151 Officer shall take such steps as is considered necessary by way of investigation and report.

- 1.g)** Should it be found that any major irregularity has, is, or is about to occur, the Section 151 Officer shall immediately inform the Chief Executive and the Chairman of the Audit Committee. The Section 151 Officer is responsible for determining whether any irregularity shall be referred to the Police. There shall, however, be a presumption when considering any case, that suspected criminal acts perpetrated against the Council should be referred to the Police for investigation.

### **Security of assets**

- 1.h)** Strategic Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that effective contingency plans are in place to:
- i) ensure continuity of service in the event of disaster or system failure
  - ii) ensure that assets are secured in the event of disaster
  - iii) hold in trust all assets secured as a result of clearing vacated council-owned premises until such a time as they can be properly disposed of in accordance with the regulations to be set out in the contingency plan.
- 1.i)** The Head of Property Service shall maintain a terrier of all land and buildings owned by the Council, or premises in which the Council has an interest. They shall ensure that all council buildings comply with all relevant legislation and that all relevant permissions and consents are secured.

- 1.j) The Assistant Director Legal and Democratic Services shall be responsible for the safe custody of all title deeds, formal contracts and agreements, under secure arrangements agreed with the Chief Executive and the Section 151 Officer.
- 1.k) Heads of Service shall maintain adequate and proper security at all times for all buildings, stocks, stores, furniture, equipment, vehicles, plant, cash and other assets of the Council, under their control.
- 1.l) Maximum limits for cash holdings, in whatever receptacle, shall be agreed with the Section 151 Officer, and shall not be exceeded without his/her express permission and with regard to the appropriate insurance limit. Current limits are set out in the **Schedule of Authorisations, item 3**. Cash received in total in excess of this amount must be banked within 24 hours.
- 1.m) Officers, who in the course of their duties collect monies on behalf of the Council, the Council's partners or third parties, shall take all reasonable steps to secure safe custody and shall comply with any instructions given by the Section 151 Officer.
- 1.n) Each Strategic Director shall make arrangements to maintain a register of keys for external doors, safes, cash boxes and others items of similar importance. All safes shall meet with such specifications determined by the Section 151 Officer after consultation with the Council's insurers. The Register shall list the keyholders and out of hours contact arrangements. The Register should be held securely and only be available to authorised officers. All keys issued to staff are to be carried on the person, or held in a secure place, by those responsible at all times. Safe keys must not be left on the premises where the safe is situated. The loss of keys must be reported to the relevant Director and Section 151 Officer immediately.
- 1.o) With regard to computing, systems, software and data integrity, the Strategic Director responsible for ICT services shall:
- i) Ensure proper security and privacy arrangements are applied in respect of all information held on the Council's computer installations, and that information is used in accordance with Data Protection and other relevant legislation.
  - ii) Ensure that effective contingency plans, disaster recovery and back-up procedures enable information systems to resume speedily in the event of an interruption. These should be documented and distributed to all appropriate personnel. They shall from time to time arrange for such plans to be tested.
  - iii) Ensure that the Council, its employees, contractors, partners and agents working in support of the Council, comply with copyright, design, patent and similar legislation.

- 1.p)** Each Strategic Director shall ensure that all staff and third party contractors/partners are aware of, and observe such rules and guidance, as may be issued under clause 1.m above. In addition, they shall ensure that the same standards of care apply to those computer systems directly under their control.
- 1.q)** Strategic Directors are responsible for ensuring that all visitors to any Council buildings or sites, except in public areas, are signed-in and wear authorised identification. They shall also ensure that any visitor is adequately supervised to ensure confidentiality of information and security of Council assets at all times.
- 1.r)** Strategic Directors, acting with the advice of the Section 151 Officer, shall ensure that the principles of separation of duties and good control procedures are observed in the allocation of accounting duties. They shall make arrangements so that:
- i) Duties of providing information regarding sums due to or from the Council and of calculating, checking and recording such sums shall be separated from the duty of cash or income handling and disbursing them.
  - ii) Officers responsible for examining and checking the accounts for cash, stocks, stores and similar transactions shall not themselves be engaged in any of these transactions.
  - iii) The organisational structure provides internal controls and minimises the risk of fraud or other malpractice.

### **Treasury management**

- 1.s)** The authority has adopted the Code of Practice for Treasury Management in the Public Services published by CIPFA (2021 edition).
- 1.t)** The Section 151 Officer is responsible for reporting to Cabinet a proposed Treasury Management Strategy for the coming financial year on an annual basis. The Council is responsible for approving the Treasury Management Statement. The Section 151 Officer has responsibility for implementing and monitoring the Statement.
- 1.u)** They are responsible for reporting to the Cabinet at least twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation within the period of the succeeding financial year.
- 1.v)** All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice.

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- 1.w)** All money in the hands of the Council is controlled by the Section 151 Officer. All external investments shall be made in the name of Dacorum Borough Council and shall be undertaken by the Section 151 Officer.
- 1.x)** The Section 151 Officer is responsible for authorising the opening of any new bank accounts or for closing bank accounts, for managing and controlling all bank accounts held by the Council, and for liaison with the Council's bankers. They will also approve the financial limits of authorised signatories to bank accounts. The term 'bank account' includes accounts with building societies, the post office or any financial institution and also includes credit or debit card facilities.
- 1.y)** The Section 151 Officer is responsible for applying for any debit or credit cards and for determining the ongoing need for any such cards in use.

### **Section 2: Staffing and consultancy arrangements**

Regulations C.7 & C.8

Last updated: September 2015

#### **Staffing arrangements**

- 2.a)** A staff structure is required to provide support to the Cabinet, the Council and the Committees of the Council for the conduct of business. The Chief Executive, as Head of Paid Service, is responsible for determining how officer support for Cabinet and non-Cabinet roles within the authority will be organised in line with hierarchy of the authorisations specified in Annex C, Clause 2.g). The Chief Executive is responsible for providing overall management to staff and for ensuring that there is proper use of the evaluation or other agreed systems for determining remuneration of employment.
- 2.b)** Strategic Directors, Assistant Directors and Heads of Service are responsible for ensuring that:
  - i) staffing levels can be funded within the totality of the approved current and forward years' budget provision allocated to them
  - ii) rules relating to virement as they apply to the engagement of staff are observed.
- 2.c)** The Chief Executive shall ensure that there is an official record of the officer structure showing each post.
- 2.d)** The Chief Finance Officer will ensure that the annual budget presented for approval balances with the approved structure charts, net of any vacancy provision policy that the Council may operate from time to time.
- 2.e)** Directors may appoint employees only to posts identified in the structure chart and on grades set out therein (apart from any additional remunerative

arrangements such as leased cars, market forces supplements etc. that the Council may apply from time to time).

- 2.f) The Chief Finance Officer shall ensure that the corporate employee database and payroll reflect only the official gradings of posts, and that additions to the payroll are effected only for posts within the structure charts.
- 2.g) Changes may be made to the structure charts in accordance with the hierarchy of authorities given in the **Schedule of Authorisations, item 4**, where the net effect of any changes is no increase in cost for the current, or a full year. Where a change to the structure chart results in an increased net cost, it shall require the approval of Council on the recommendation of Cabinet.
- 2.h) Strategic Directors may engage temporary staff to cover for the exigencies of the moment and/or staff absences/vacancies. Whilst not reflected on the structure charts, payment may be effected through the payroll if in the opinion of the Section 151 Officer it is appropriate to do so. The Section 151 Officer will ensure that all such 'employment' is clearly shown on system as temporary and will ensure that no contractual commitment is entered into that would cause the temporary or interim worker to gain full employment rights.
- 2.i) The annual budget report submitted by the Chief Finance Officer shall include a section identifying any changes made to the structure charts since the previous budget report and defining the structure for the coming year.

### Use of consultants

- 2.j) A consultant organisation or consultant may be engaged, where in the opinion of the Chief Executive or relevant Strategic Director, they consider that the consultant will add value to the Council's determination of a particular technical, professional, managerial or political matter. This scheme applies to commissioned work and managing or advising consultancy and does not embrace the engagement of agency or other personnel covering vacancies within established posts. Costs of consultants must be contained within existing budgets.
- 2.k) A consultancy or interim staffing arrangement will exist where the person and/or company is not employed under a direct contract of employment with the Council and such appointments shall be procured through the following:
  - i) an agency contract agreed under a framework agreement for the supply of agency staff as detailed on the Council's Contract Register; or
  - ii) be procured through the Corporate Procurement Team and in accordance with Procurement Standing Orders.
- 2.l) Prior to inviting consultancy support the relevant Strategic Director shall identify and set down in writing the project objective(s), required 'deliverables', and timescales, which shall then form the basis of any consultancy contract.

### **Project brief and monitoring arrangements**

**2.m)** In letting and managing a consultancy contract, the Strategic Director shall:

- i) ensure that the outcomes and timescales of a consultancy are determined in writing in advance of any contract being let
- ii) assign responsibility within his/her directorate for the day to day management of the consultancy
- iii) determine the monitoring arrangements, review points, and any documentation and/or access and/or other protocols necessary for the conduct of the consultancy
- iv) ensure that adequate and appropriate records are kept of consultant hours and/or outputs where payment is based on time used or production of specified outputs
- v) ensure that all consultants are engaged on the basis of a written contract, set down and agreed before the commencement of the consultancy, and that such contract requires the consultant(s) to comply and be bound by any prevailing policies, standing orders, financial regulations and other instructions that are relevant to the consultancy task as though the consultant(s) were employees of the Council
- vi) ensure that all documentation or other outputs generated by the consultancy are and remain the property of the Council in all respects, but especially including copyright and intellectual property rights, and that such material shall be in the possession of the Council at the end of the consultancy
- vii) ensure that where consultants are retained to supply a product of significant ongoing tangible value to the Council, e.g. architects, engineers, software consultants etc, that the consultant(s) have adequate professional indemnity and public liability insurance cover in place, and that the existence of such cover shall be a contractual requirements.

## ANNEX D

### Schemes of Delegation

Regulation D.4.

Last updated: April 2024

Strategic Directors are required to maintain a scheme of delegation identifying officers authorised to act on their behalf on financial matters. A completed copy will be retained by the Section 151 Officer.

The scheme shall cover authorisation of payments to be made to staff, contractors and suppliers, the collection of income and placing of orders including variations. The scheme shall also apply to the authorisation of Accounts Receivable credits and cancellation of invoices. In each instance, the financial limits within which the member of staff or agent has authority to act shall be identified as follows. All contracts must be let in accordance with the Procurement Standing Orders, and Procurement guidance must be sought for the letting of contracts outside of the approval levels contained within the table below. Where a postholder meets more than one of the criteria below e.g. Section 151 Officer and Strategic Director, the higher of the two values should be taken.

Postholder	Authorisation Level	
	Contract Letting	Unit 4 Business World Approval
Chief Executive	£500,000	£20,000,000
Section 151 Officer	£500,000	£10,000,000
Strategic Director Housing and Property Services	£500,000	£3,000,000
Strategic Director	£500,000	£1,000,000
Assistant Director	£250,000	£250,000
Head of Service	£75,000	£250,000
Team Leader	£25,000	£25,000



## ANNEX E

### Income and assets

#### Section 1: Accounting for income

Regulation D.6

Last updated: December 2019

**1.a)** The key controls for income are that:

- i) all income due to the Council is identified and charged correctly, in a timely manner and in accordance with corporate charging policies, and is collected and properly accounted for
- ii) in the case of significant contracts, a financial vetting procedure is used to assess the merits of trading with the prospective (or, where appropriate, existing) customer
- iii) all income is banked or remitted to the Finance Department within one working day in line with the requirements of the Section 151 Officer
- iv) responsibility for cash handling should be separated from the person raising the debt
- v) effective action is taken to pursue non-payment within defined timescales
- vi) formal approval for debt write-off is obtained in accordance with Council policy and actioned promptly
- vii) retention and storage of all appropriate income documents is in accordance with the document retention guidelines.

#### Responsibilities of the Section 151 Officer

**1.b)** The responsibilities of the Section 151 Officer are:

- i) To authorise arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- ii) To maintain a financial vetting procedure for use in selecting and approving prospective (or, where appropriate, existing) customers in respect of significant contracts.
- iii) To establish and initiate appropriate recovery procedures, including legal and bailiff action where necessary (subject to legal advice where appropriate), for debts that are not paid promptly.

- iv) To authorise the write-off of bad debts up to an approved limit and to ensure that larger sums are referred to the Portfolio Holder for Corporate and Commercial Services with their recommendation, or to Cabinet as appropriate.
- iv) To ensure that appropriate accounting adjustments are made following write off action for all debts
- vi) Debts will be collected by the Chief Finance Officer unless specifically authorised otherwise by them. Assistant Directors/Heads of Service will notify the Chief Finance Officer of all debts due promptly so that they can issue debtor accounts expeditiously. Such notification to the Chief Finance Officer will include all information required by him/her, and be in a form required by him/her to enforce collection effectively. This may include evidence to support enforcement during legal proceedings.
- vii) To maintain and keep updated by submitting proposals to Cabinet, a policy for fees and charges, in consultation with relevant Strategic Directors.
- viii) Reviewing the ordering, issuing and control of official receipting documentation.
- ix) Regularly advising relevant managers of the status of debts outstanding.
- x) Agreeing, determining and advising responsible officers of the minimum amount for which an invoice may be raised.
- xi) Agreeing and determining the use and terms acceptable for credit and debit card receipting.
- xii) Ensuring that appropriate accounting adjustments are made following write-off action.
- xiii) Where money, money's worth or the security of financial documents may be at risk ensuring, where practical, that at least two employees are present when post is opened so that funds, or the financial document received is properly identified and recorded.

### **Responsibilities of Strategic Directors**

**1.c.** The responsibilities of Strategic Directors are:

- i) To establish departmental charges for the supply of goods or services, including the appropriate charging of VAT, and to review them at least annually, in line with the corporate charging policies.
- ii) To ensure that the advice of the Section 151 Officer (or an officer to whom responsibility has been delegated) is obtained in respect of prospective

(or, where appropriate, existing) customers where significant contracts are being considered.

- iii) To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due in a timely manner, so that sums due to the Council are recorded correctly. This includes ensuring that there is sufficient evidence of a usable quality is taken and held for debt collection purposes such as proving invoices or initiating legal proceedings.
- iv) To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- v) To ensure that proper banking and accounting procedures are observed, which will include the issue of official receipts and to ensure that appropriate details are recorded on to bank paying-in slips to provide an audit and management trail. These details should match the payment to the account or invoice to be credited.
- vi) To assist the Section 151 Officer by providing any further information requested by Financial Services to facilitate the follow up and recovery of outstanding debts and to assist in the following up of outstanding debts on behalf of the Council.
- vii) Identification, collection, receipt, custody, control, disposal and proper accounting of all monies received, or receivable by the Council in accordance with any requirements of the Section 151 Officer.
- viii) Immediate acknowledgement of sums received by an officer, by the issue of a sequentially pre-numbered receipt, ticket, voucher, or other document approved by the Section 151 Officer. Accounting for all receipts issued to officers, ensuring that they are used for official purposes and that the monies so receipted have been promptly collected and paid over to the Council, or its bankers intact, and without deduction for other purposes.
- ix) Systematic consideration of bad and doubtful debts, including the cessation of service where there is a history of persistent poor payment in consultation with the Section 151 Officer.
- x) Levying and collecting charges in advance or at the time for services provided. Where this is not feasible responsible officers shall promptly issue a sundry debtor account.

### **Responsibility for recovering the Council's income**

**1.d)** The responsibility for recovering the Council's income is as follows:

- i) Council Tax and Business Rates – Chief Finance Officer

- ii) Housing rents and associated income – Assistant Director (Housing Operations).
- iii) Parking – Head of Commercial Development
- iv) Entertainment – Assistant Director (Place, Communities and Enterprise).
- v) Sales – various.
- vi) Government grants – Chief Finance Officer.
- vii) Commercial rents and associated income – Head of Property Services).
- viii) Planning application fees – Assistant Director (Planning).
- viii) Licensing application fees – Assistant Director (Legal and Democratic Services).
- x) Invoicing annual fees - Chief Finance Officer
- xii) Sundry income invoiced through Accounts Receivable – Chief Finance Officer.

The definition of “Sundry Income” for the purposes of the above is:

- (a) those amounts due in respect of sales, fees and charges for services provided by the Council or falling due for payment, and which are:
- (b) invoiced using the Accounts Receivable system, and/or
- (c) all income types other than those listed above.

### **Section 2: Documentation and cash handling**

Regulation D.7

Last updated: December 2019

- 2.a)** All books and forms of account and all official receipt forms or books, licences, tickets and all documents or vouchers or tokens representing receipts or money shall be in a form approved by the Section 151 Officer.
- 2.b)** The arrangements for ordering, storing and control of such receipts, forms, books and other documents shall be approved by the Section 151 Officer. All receipts and issues of such documents shall be properly recorded and acknowledged in a manner approved by the Section 151 Officer.
- 2.c)** All cash received on behalf of the Council shall be properly acknowledged by the issue of an official Council receipt or other document of a type referred to

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above, unless alternative arrangements have been approved by the Section 151 Officer.

- 2.d)** Receipts for payments made by cheque should be made when requested by the payer. Payments received by automated methods, such as by debit/credit cards or via the Internet, must be recorded in such a manner as to facilitate reconciliation of the amounts received with the account(s) to be credited.
- 2.e)** Bankings must always be intact, i.e. to include all monies received that day (or other agreed period).
- 2.f)** No expenditure should be made out of income received which should all be banked in full. Refunds of overpayments must be made through the Creditors system, unless specifically sanctioned by the S151 Officer.
- 2.g)** Third-party cheques should only be accepted where the cheque is from an approved source, e.g., utility undertaking and where it is used in full or part settlement of a Council debt. In no circumstances should they be cashed, or be accepted and change given.
- 2.h)** Council cheques should only be accepted when it has been confirmed with Financial Services that no "stop" exists.
- 2.i)** No cheques from anyone should be cashed at all apart from, in limited situations, Dacorum Borough Council cheques being cashed or opened. Where a request is made to open a cheque, such action must be approved by the Section 151 Officer.
- 2.j)** Under no circumstances should personal cheques belonging to staff be cashed in, or money borrowed from, income or other Council monies. Breach of this Financial Regulation will be regarded as disciplinary matter.

### **Holding cash for third parties**

- 2.k)** In instances where officers of Members of the Council receive cash belonging to third parties, such as in the case of clearing council owned property and retaining assets until they can be passed to an identified owner, the standard procedure note for receipting cash will be followed.

### **Invoices and record keeping**

- 2.l)** Demand notices or invoices shall be raised in respect of all debts except:
  - (i) parking fees
  - (ii) entertainment tickets
  - (iii) ad hoc cash sales

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- (iv) such other situations as the Section 151 Officer may determine as appropriate, such situations being recorded in a revision of Financial Regulations as soon as is practical.
- 2.m)** Where income is derived from a certificated grant claim to the government, the documentary provisions related to that claim shall apply for record keeping purposes.
- 2.n)** Where a demand notice or invoice is required, the following services shall be responsible for issuing them:
- i) Council Tax and Business Rates – Chief Finance Officer – Demand Notices.
  - ii) Housing rents and associated income – Assistant Director (Housing Management) – Rent Statements.
  - iii) Commercial rents and associated income – Head of Property Services – Invoice.
  - iv) (Sundry income via Accounts Receivable – Chief Finance Officer – Invoice.
- 2.o)** For debts arising for Council Tax, Business Rates and Housing Rents, there are statutory provisions that must be followed for raising demand notices. These provisions are set out in separate procedure manuals and are not repeated here.
- 2.p)** Where a debt is to be invoiced and recovered by Financial Services, it shall be the responsibility of the Head of Service that has arranged or provided the service to ensure that:
- (i) Liability is properly established.
  - (ii) The service is documented in a contract or agreement that has been correctly signed by all relevant parties.
  - (iii) That the contract or agreement or other relevant evidence is provided to Financial Services as evidence with the invoice request.
  - (iv) All liabilities should be raised against individuals or corporate entities. Liabilities shall not be raised in the name of “The Occupier” or similar forms and neither should trading names be used in the place of proper legally recognised persons.
- 2.q)** It is imperative that proper evidence supports invoice requests as this prevents invalid invoices being issued. Invalid invoices generally lead to debit reversal to the originating department cost centre or bad debts and write offs.

- 2r)** All notifications of debt to debtors will be by official invoice issued by the Chief Finance Officer or by a Strategic Director in respect of a service and in a manner approved by the Section 151 Officer. Under no circumstances may service departments operate unofficial debtor systems or seek to manage debt via correspondence with the debtor.
- 2.s)** All invoices for income due to the Council shall be prepared and issued by Financial Services, such issues immediately following an invoice request that is supported with the relevant evidence. Invoice requests that are not adequately supported will be returned to the originating department for rectification.
- 2.t)** Invoices shall be set out and issued in the manner approved by the Section 151 Officer.
- 2.u)** Invoices may be reduced in value if the services provided have been incorrectly charged at a higher level. Where the value of an invoice needs to be reduced, a written instruction must be provided to Financial Services detailing the reasons and the revised amount and authorised in line with the **Scheme of Delegation, Annex D**.
- 2.v)** Invoices may only be cancelled where:
- (i) the debt has been raised against an incorrect liable party
  - (ii) a variation to a lease or licence results in a lower charge
  - (iii) the planned service has not been provided, e.g. a trade refuse contract that has commenced, but the bin was not been delivered
  - (iv) the information recorded on the invoice is factually wrong, or
  - (v) the “debtor” has no liability in law.
- 2.w)** Where an invoice is cancelled, the reason for cancellation must be recorded in a written instruction and authorised in line with the **Scheme of Delegation, Annex D**. In all other circumstances where an invoice needs to be cancelled, the write off procedure must be used.
- 2.x)** No customer should be advised that a debt is uncollectable or will be written off or be given similar undertakings unless the decision making process with regard to debt write-off has been completed.

### **Section 3: Petty cash, change floats, and electronic purchasing card (EPCs) purchases**

Regulation D.10

Last updated: July 2017

- 3.a)** The Council's resources may be held as cash only where there is a business need. Any cash holdings must be authorised by the Section 151 Officer who will review the need for such cash holdings periodically and may, at his/her discretion, in consultation with Strategic Directors, withdraw or alter the size of cash holdings.
- 3.b)** Any requests for cash holdings shall be made by the relevant Strategic Director to the Section 151 Officer. Directors will also furnish the Section 151 Officer with a schedule of all cash holdings with details of the officer responsible for their custody.
- 3.c)** In all instances vouchers seeking payment shall be properly certified for payment by officers authorised to do so and coded. All vouchers shall have attached to them securely receipts and/or other appropriate documentation in support of the full value of the payment that is requested. Vouchers shall be stored in line with the Document retention schedule.
- 3.d)** The Section 151 officer shall determine the form for vouchers to be used to seek disbursement from petty cash holdings or imprests. No other form of voucher shall be used to obtain disbursement of official monies in this manner.
- 3.e)** Cash reimbursements shall be limited to minor purchases (when supported by receipts) not exceeding a sum determined by the Section 151 Officer and specified in the **Schedule of Authorisations, item 5**. Payments must not be broken up to avoid this limit. Petty cash floats may not be used for reimbursements of employee expenses, payments of invoices, or refunds. Official monies must never be used for cashing personal cheques.
- 3.f)** Periodically, and at least monthly, responsible officers shall perform, in conjunction with another officer regular checks to ensure that the balance of credit on the account together with the sums disbursed equal the amount of the approved imprest. A record of such reconciliation, signed by both officers, shall be retained.
- 3.g)** Strategic Directors shall ensure that any imprest held by an officer leaving his/her post is checked prior to his/her leaving and either paid back into the Council's Bank Account or transferred to another authorised officer.
- 3.h)** Electronic Purchasing Cards (EPCs) will be issued to, and retained by officers who have a business need. Applications for Plastic Cards with Standard and Higher Spend Limits shall be counter-signed by the Head of Service of the relevant Department. In cases where the application is for a higher limit, these shall be signed thereafter the Council's Section 151 Officer on the advice of the Head of Financial Services.
- 3.i)** The use of EPCs, standard limits and controls are set out in the Councils separate e-purchasing cards policy, available to employees on the intranet. Employees will only be issued with an EPC after formal training on the scheme, and signing a cardholder agreement detailing proper usage.



- 3.j)** EPCs will never be used for obtaining cash advances.
- 3.k)** Employees holding EPCs will ensure that VAT receipts are obtained, where relevant, for all transactions and that all supporting documentation is handed over promptly to permit the payment of EPC bills.
- 3.l)** In addition to plastic cards, the Council has the ability to lodge embedded cards with suppliers. Embedded Cards are recommended for high value transactions, and are to be used for the Council's larger contracts and where the Council will generate a significant rebate.
- 3.m)** The suitability of a supplier for the use of an embedded card will be identified by Financial Services and will be approved by the Council's Section 151 Officer.

### **Section 4: Debt write-off and credit write-on procedures and limits**

Regulations D.13 & D.14

Last updated: March 2024

#### **Write-offs**

- 4.a)** A write-off request must be prepared detailing:
  - (i) name and address of the debtor
  - (ii) value of the debt
  - (iii) service provided
  - (iv) reason why the debt is irrecoverable
  - (v) the authorisation route that must be followed.
- 4.b)** The write-off request should account for the full indebtedness of an individual or organisation and any information relevant to determining their financial obligations to the Council, and should also identify previous write-offs for that debtor.
- 4.c)** Where credits exist in the name of the debtor, they should be offset against the debt in order to minimise the extent of write-off.
- 4.d)** Where there are multiple write-off requests, the requests shall be compiled into a schedule for each month that shows the following:
  - (i) name of the debtor
  - (ii) value of the debt

- (iii) type of reason why the debt is irrecoverable
  - (iv) the total value of debt write-off requests in the period covered by the schedule and the sub-total of values by type.
- 4.e)** The write-off request must be supported by appropriate working papers that support the reason for writing off the debt. The individual request or schedule of requests must be approved by the relevant Head of Service and the Section 151 Officer. The Section 151 Officer may request further details of write-off requests listed on the schedules prior to approval.
- 4.f)** Authorisation for write-offs depends on the value of the write-off request. A schedule of authorisations is provided in the **Schedule of Authorisations, item 6**. Depending upon the write-off thresholds, the request may be supported with a minute/decision sheet relating to a Portfolio Holder or Cabinet decision. All proposed write-offs shall be subject to review and approved by the Section 151 Officer who may, if they consider it appropriate, determine that a higher level of authority for write-off should be exercised.

### Write-ons

- 4.g)** Where unclaimed credits are held within the Council's accounts, they may be considered for writing on. Where this happens and the value of the write on is £1000 or higher, a write-on request form shall be prepared detailing:
- (i) name and address of the account holder
  - (ii) value of the credit
  - (iii) service that the credit relates to
  - (iv) reasons why the credit should be written on.
- 4.h)** The write-on request form must be signed by the relevant Head of Service and supported by appropriate working papers. The request will be considered and determined by the Section 151 Officer.
- 4.i)** All write-off and write-on paperwork shall be retained for such period of time as required by the Document Retention Schedule for Dacorum Borough Council.

### Write-off recovery thresholds

- 4.j)** The cost of undertaking recovery proceedings can be expensive and given the low value of some debts, it may not be economic to commence such action. The Section 151 Officer, shall set de-minimis levels for recovery action and review and amend them on a periodic basis. Write-off recovery thresholds are set out in the **Schedule of Authorisations, item 7**.
- 4.k)** Where a debt is considered in court proceedings and it is in the interests of the

Council to accept a consent order for a lower amount in full and final settlement of the debt, any value that needs to be written off will be accounted for as per the threshold table with the reasons attached to it. Where this occurs, the authorising role will not be able to challenge the write-off due to the existence of a court order. However, if there are doubts as to the appropriateness of the full and final settlement decision that related to the court order, then the Section 151 Officer shall investigate the case and take appropriate action.

- 4.l) With the exception of court order cases, the process of writing off debt is not irreversible and in the event that monies are recovered in the future, the relevant amount will be credited back into the Council's accounts.

### **Credit Limits**

- 4.m) There is a general presumption that discretionary services provided to a customer should be paid for on time. In the event of a repeated failure to pay in accordance with the credit terms and where appropriate, the Accounts Receivable Team will recommend to the service department that the provision of services should cease. In the event that the recommendation is not accepted by the service department, then the service department must provide reasons in writing to the Section 151 Officer as to why services should continue to be supplied.
- 4.n) To reduce the risk of loss of income or value of good and services to be supplied, the Section 151 Officer shall maintain a financial vetting procedure in order to assess or review the risk of entering into or, where appropriate, continuing with, significant contracts with existing and prospective customers, suppliers or partners.
- 4.o) The procedure referred to in Clause 4.n above shall define the term 'significant contract' and take into account the Council's revenue streams, procurement contracts and partnerships and the prevailing risks associated with them. Where a prospective (or, where appropriate, existing) customer, supplier or partner fails to achieve a satisfactory financial vetting assessment, the Council shall:
- (i) not enter into any new contractual arrangement and
  - (ii) review any existing contractual arrangement to establish whether it is appropriate to continue the said existing contractual arrangement in the light of the assessment.

### **Section 5: Responsibilities for stocks, stores and minor assets**

Regulation D.15.

Last updated: September 2015

### **Responsibilities of the Section 151 Officer**

**5.a)** The Section 151 Officer is responsible for:

- i) Adopting appropriate accounting policies and advising Strategic Directors of the basis to be adopted for valuing stocks and stores.
- ii) Ensuring that the valuation of all stocks and stores is fairly reflected in the Annual Financial Statement of Accounts.
- iii) Determine minimum standards to be complied with under regulations relating to assets, at paragraphs (a) (b) and (e) below.

### **Responsibilities of Strategic Directors**

**5.b)** Each relevant Strategic Director is responsible for, ensuring :

- i) That there are effective and efficient procedures for procuring, holding and the issue of stocks and stores, and that such procedures are to the satisfaction of the Section 151 officer.
- ii) That objective statistical methods are used, in accordance with best practice, to determine order quantities and maximum and minimum order levels, and that such methods are to the satisfaction of the Section 151 officer.
- iii) Furnishing the Section 151 Officer with details and a signed certificate of the value of stocks and stores held within their directorates as and when required by the Section 151 Officer.
- iv) Arranging for goods to be checked at the time of delivery to ensure that quantity, quality and price comply with the contractual or order specification.
- v) That comprehensive, complete and up to date stores/stock records are maintained and that such records are in a form that is satisfactory to the Section 151 Officer. Where stores / stock recording systems are computerised, they shall interface appropriately with the Council's main Financial Management System and interface controls will be to the minimum standard determined by the Section 151 officer.
- vi) Regular and systematic stocktaking, ensuring that every item is checked at least once annually, and that fast moving, valuable or desirable items are checked more frequently.
- vii) Procedures for the disposal of surplus or obsolete stock are correctly complied with. These are set out under Financial Regulation D.23.

### **Asset inventories**

**5.c)** Asset inventories shall be held and kept current by Heads of Service , who will

ensure that all areas under their authority have an asset inventory. They shall contain clear descriptions of all fixed and moveable assets having a current value in excess of an amount specified by the Section 151 Officer in the **Schedule of Authorisations, item 8**, other than land and buildings, which are listed in the property register, which is kept by the Head of Property Services and ICT equipment for which a separate inventory is kept by the responsible Strategic Director.

- 5.d)** Where assets have unique serial numbers, they shall be recorded in the asset inventory.
- 5.e)** The Section 151 Officer is responsible for:
- i) Ensuring that all equipment, furniture, fixtures and fittings, plant, machinery, tools and other valuables are appropriately insured, and that appropriate risk management reviews are undertaken periodically.
  - ii) Determining the form for official inventories.
  - iii) Determining the basis for valuation of items recorded in asset inventories.
- 5.f)** The Strategic Director with responsibility for Digital Services is responsible for:
- i) The maintenance of a comprehensive Hardware and Software Inventory for all Council ICT equipment held throughout the Council.
- 5.g)** Strategic Directors are responsible for:
- i) Ensuring that each Head of Service compiles and maintains an inventory of assets in the official form (other than land and buildings, and ICT equipment), and that appropriate entries are made at the time of purchase and disposal.
  - ii) Arranging for an independent annual inspection of all items on the inventory.
  - iii) Informing the Section 151 Officer and if it appears that assets cannot be accounted for.
  - iv) Ensuring that all purchases of ICT equipment are made through ICT Services.
  - v) Advising the Section 151 Officer of the valuation of inventories for insurance purposes.
  - vi) Determining the method by which redundant or assets surplus to requirements shall be disposed of. Asset disposals shall be undertaken in accordance with these regulations and in accordance with European Directives on the disposal of electrical and computer equipment.

- vii) Ensuring that all assets are used wholly and exclusively for Council business.

## ANNEX F

### Disposal of Assets (including Stocks and Stores)

As a public authority the Council should, in the disposal of its landholdings and other assets, always seek to obtain the best price reasonably obtainable, in terms of money or monies worth, unless it is absolved from this duty by statute, regulation or other lawful authority. The following regulations govern the disposal of assets.

#### Section 1: Land disposals

Regulation D.24

Last updated: March 2024

- 1.a)** For the purposes of the following, "land" includes land of which the Council owns the freehold or leasehold interest and interests such as restrictive covenants of which the Council has the benefit It includes land and buildings, leases, easements and other rights of way.
- 1.b)** Disposals of land shall always be for the best consideration possible, including monetary and other relevant factors. Any authorisations from Government that are required in respect of the need to seek best consideration shall be applied for by the Chief Finance Officer.
- 1.c)** Disposals of land valued at £750k or above shall be authorised by Cabinet on the basis of advice by the Chief Finance Officer and Cabinet shall also approve any nonmonetary aspects of the disposal where they are material to the consideration sought.
- 1.d)** Disposals of land valued above £15k but below £750k may be authorised by the Chief Finance Officer in consultation with the Portfolio Holder for Corporate and Commercial Services. Where such a disposal relates to assets held by the Council's Housing Revenue Account:
  - The Strategic Director Housing and Property Service will notify the Chief Finance Officer of their support for the disposal and
  - The Chief Finance Officer will, in addition, seek approval for the disposal from the Portfolio Holder for Housing and Property Services.
- 1.e)** Disposals of land valued at £15k or below may be authorised by the Chief Finance Officer or Head of Financial Services.
- 1.f)** All valuations and negotiations in respect of land disposals must be carried out by or under the supervision of a properly qualified member of the Society of Valuers and Auctioneers or a member of the Royal Institution of Chartered Surveyors, who is not a member of the Council and who is in a position to judge the conditions prevailing in the local property market.

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- 1.g)** All valuations will be carried out in a manner that will satisfy external audit requirements, and the advice of the Section 151 Officer will be taken in that respect.
- 1.h)** Negotiations with prospective developers should take place at the Council's offices or the developer's office within normal office hours (subject to the necessity for such negotiations to be extended in exceptional circumstances beyond those hours). Two officers of the Council will be present during negotiations and all such valuations and negotiations shall be subject to written record and approved by the Chief Finance Officer unless delegated. A signed record of all meetings shall be retained.
- 1.i)** The Strategic Director of the appropriate directorate and the Council's duly appointed valuer or other agent shall be involved in or appraised of all major steps in the negotiations in respect of transactions or of a series of transactions, the estimated value or the aggregated value of which exceeds an amount specified by the Section 151 Officer in the **Schedule of Authorisations, item 9**.
- 1.j)** It shall be the duty of the Chief Finance Officer to report on the progress of any major transaction authorised by the Council to Cabinet at least at six monthly intervals and upon completion of the transaction. This duty will apply to transactions in respect of which the aggregate consideration is likely to exceed the amount specified in Clause 1.g above and those where there are significant operational implications.
- 1.k)** No land owned or leased by the Council shall be disposed of to another body or person until it has been offered to all other services of the Council, unless in the opinion of the Senior Leadership Team such land is of no conceivable value or interest to any of the Council's services. Transfer of land between services requires the approval of:
- i) the Senior Leadership Team
  - ii) the "transferor" Cabinet Portfolio Member\*
  - iii) the "transferee" Cabinet Portfolio Member\*.
- \*Approval by Cabinet Portfolio Holders in this regard shall be by formal Portfolio Holder decision.
- 1.l)** The Chief Finance Officer shall effect any transfer in the accounts that may be required.
- 1.m)** No land owned by the Council or of which the Council is lessee shall be disposed of except by way of renewal of lease until a report has been prepared by the Chief Finance Officer containing:-
- i) an inspection report describing the land and, where appropriate, its physical characteristics and development constraints



- ii) a report on title by the Assistant Director (Legal and Democratic Services)
  - iii) any information from the Council's records which would affect the land's value or development potential
  - iv) where appropriate an assessment of the development potential of the land by the Assistant Director (Planning)
  - v) any advice by the Strategic Director seeking to dispose of the land.
- 1.n)** In formulating his/her advice, the Chief Finance Officer shall make recommendations in respect of
- i) issues that need to be resolved before marketing of the land can proceed
  - ii) the method of disposal
  - iii) the title to be transferred
  - iv) the price the Council should receive along with the "asking" and "reserve" price
  - v) any special conditions of sale
  - vi) any appointment of external advisers or agents that may be desirable.
- 1.o)** All disposals of land owned or leased by the Council shall be by one of the following methods. The Chief Finance Officer shall determine on the basis of appropriate professional advice which method is in the best interests of the Council at any given time.
- i) **Private Treaty**  
This method may be used where in view of the size, value or location of the land there is only one prospective purchaser with a foreseeable interest in acquiring it. It may also be appropriate where the number of those interested is limited to two or three and the value of the land is low, but in any such case those with a foreseeable interest should be notified of the Council's intention to dispose of the land and any interest in acquiring it should be pursued and assessed.
  - ii) **Tender**  
This method may be appropriate where there are two or more prospective purchasers with a foreseeable interest in acquiring the land. Where the estimated value of the land exceeds a value specified by the Section 151 Officer in the **Schedule of Authorisations, item 10** and more than one prospective purchaser exists, this method should be used in preference to Private Treaty. Advertisements should be placed in the local newspaper and, if appropriate, national newspapers. Tenders should be on the basis of identical terms and conditions of the sale. The tender documentation

should make it clear that the Council is not obliged to accept the highest or any tender and in the event of any higher offer being received before a contract is exchanged, the Council may be obliged to consider it. In the event of any such higher offer being received, all interested parties who have submitted a tender must be given the opportunity of making a further or revised offer by a specified date.

iii) **Public Auction**

This method will be used where the value of the land is difficult to ascertain in view of its size, location, development constraints or other factors, and interest in it is unknown. If the land is valued by a Chartered Surveyor as likely to achieve £750k or over, then appropriate conditions of sale and any reserve price should be approved by Cabinet. If the land is valued by a Chartered Surveyor as likely to be less than £750k, then appropriate conditions of sale and any reserve price should be approved by Chief Finance Officer in consultation with the Portfolio Holder for Corporate and Commercial Services. Where the disposal relates to assets held by the Council's Housing Revenue Account, the Chief Finance Officer and Strategic Director Housing and Property will, in addition, consult with the Portfolio Holder for Housing and Property Services. The current requirement for third party valuation of land for disposal would remain, as would the requirement for sign off by the Council's Section 151 Officer and Monitoring Officer.

iv) **Building Agreements**

Where land is to be disposed of under a building agreement and subsequent lease, developers' proposals should be invited by public advertisement and considered by the appropriate Cabinet Portfolio Member.

- 1.p) These rules do not apply to a disposal under the "Right to Buy" provisions of the Housing Act 1985, to disposals under any scheme adopted by the Council for the extension of the "Right to Buy", to any disposal which is required either by statute or by a court of law, or to a disposal otherwise than for best price reasonably obtainable under a general or specific consent of the Secretary of State.

### Section 2: Equipment disposals

- 2.a) This Section applies to all plant, equipment and other smaller assets. It includes vehicles, plant, machinery, office equipment (including ICT equipment) etc. It also applies to items of stocks and stores with an individual value of less than the amounts specified by the Section 151 officer in the **Schedule of Authorisations, item 11**.
- 2.b) Save for any ICT equipment, any vehicle or article of equipment, machinery, furniture, etc., which is surplus to the requirements of one of the Council's service units must be valued by or under the instructions of the Head of Service of the service unit which has responsibility for it. The need for accuracy in the valuation will depend largely upon the intrinsic value placed upon the article.

**Scrap Items** (where the responsible Head of Service is satisfied that there is no economic value in the item for its original or intended use).

- 2.c) The Head of Service should use his/her best endeavours to obtain best price on the open market.
- 2.d) If on investigation a better value can be obtained in a trade-in for new equipment than on a sale on the open market, the Head of Service may conduct the disposal on the basis of trade-in.

### ICT Equipment

- 2.e) All ICT equipment for disposal should be passed to Digital Services.
- 2.f) Digital Services should ensure all equipment conforms to licensing and Health and Safety requirements.
- 2.g) Where possible Digital Services should re-use the equipment within the Council.
- 2.h) If the equipment is not required by the Council, it may be given free of charge to voluntary or not-for-profit organisations.
- 2.i) If the equipment has value, the best price possible to should be obtained.
- 2.j) The Digital Services are required to schedule and retain documentary evidence of the disposal of ICT equipment for a period, as outlined in then Retention Schedule for documents.
- 2.k) The Head of Service responsible for Digital Services will ensure that all ICT equipment disposed of has sensitive data or material that would contravene the Data Protection Act or other legislation erased irretrievably and retained in accordance with the Council's document retention strategy.

**Other Minor Usable Items** (with an intrinsic resale value up to the value specified in clause (a) above.

- 2.l) The responsible Head of Service should first cause an internal advertisement for the article to be published amongst all Heads of Service with a potential use for the article for Council business.
- 2.m) Where no service unit Manager requires the article to be disposed of, it may be advertised for sale to Council employees at the price placed upon the article by the responsible Heads of Service.
- 2.n) Where no Head of Service or employee requires the article to be disposed of it may be publicly advertised for sale at the price placed upon the article by the responsible Head of Service; or it may be offered to a voluntary or educational organisation.

- 2.o) The responsible Head of Service is authorised to dispose by way of trade-in or by way of Private Treaty with a view to obtaining best price or value reasonably obtainable.
- 2.p) Where the value of asset to be disposed of is as specified by the Section 151 Officer in the **Schedule of Authorisations at item 11b**, sections 2a)- 2.o) above apply and the Head of Service must also seek formal authorisation for the disposal from the Section 151 Officer and relevant Strategic Director via an approved officer decision sheet, prior to any disposal taking place.

### Section 3: Major reusable items

- 3.a) This section applies to assets with an intrinsic resale value in excess of the amount specified under Clause 2.a) above and to stocks and stores with an individual value above this amount.
- 3.b) Assets within this section should be the subject of public advertisement in local or national newspapers and/or appropriate trade journals and open tendering procedures. Tenders should be on the basis of identical terms and conditions of sale. The tender documentation should stipulate that the Council is not obliged to accept the highest or any tender.
- 3.c) Alternatively these items may be disposed of by way of public auction, with or without reserve price including via electronic auction on a recognised auction website.
- 3.d) Alternatively, these items may be disposed of by way of trade-in for new or replacement equipment if this method will achieve better value than the best open market price reasonably achievable.
- 3.e) Disposals of major reusable items must be authorised by the Cabinet where the disposal may achieve a receipt in excess of an amount above that specified by the Section 151 Officer in the **Schedule of Authorisations, item 12**. The responsible Head of Service must prepare a report containing:
  - i) An inspection report describing the equipment and its condition.
  - ii) Any information from the Council's records or within the responsible Head of Service's knowledge which would affect the equipment's value.
  - iii) Recommendations where appropriate on the following:
    - a.) issues that need to be resolved before marketing of the equipment can proceed
    - b.) the method of disposal
    - c.) the price the Council should receive along with the "asking" and any "reserve" price, if the equipment is to be sold by public auction.

- d.) any special conditions of sale
  - e.) the appointment of external advisers or agents
  - f.) whether negotiations should proceed with a special purchaser.
- 3.f)** These rules shall not apply to disposal by the Council of items by way of sale in the normal course of the Council's business (e.g. food from the food outlets etc.).

### **Section 4: Disposals of other assets**

- 4.a)** This Section applies to all other tangible or intangible assets, including but not restricted to stocks and shares, works of art, debts, goodwill and intellectual property such as copyright.

#### **Investments**

- 4.b)** The disposal of all investments is delegated to the Section 151 Officer and shall be made in compliance with the best prevailing advice of the Council's appointed advisers, CIPFA or other reputable and authoritative sources such as the Bank of England, Stock Exchange or HM Treasury.
- 4.c)** All procedures relating to the disposal of investments shall be detailed in a Treasury System Document produced by or under the direction of the Section 151 Officer.

#### **Other Intangible Assets**

- 4.d)** All 'Other Assets' other than investments (eg debts, patents, trade marks) which are to be disposed of shall be valued by a person who is professionally qualified in the particular field.
- 4.e)** The appropriate Strategic Director will obtain Cabinet authorisation where the value of the asset(s) to be disposed of exceeds an amount specified by the Section 151 Officer in the **Schedule of Authorisations, item 13**. The Cabinet report will include:
- a) a description of the asset
  - b) a report on title by the Assistant Director Legal and Democratic Services
  - c) any information from the Council's records or within the knowledge of its employees which may affect the asset's value.
- 4.f)** The report to the Cabinet Portfolio Member shall contain recommendations on:
- a) the method of disposal

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- b) an estimate of the price which the Council should receive along with the "asking" price and any "reserve" price, if appropriate
  - c) any special conditions of sale
  - d) the appointment or external advisers or agents
  - e) whether negotiations should proceed with a special purchaser.
- 4.g)** The method of disposal of other assets will depend upon the nature of the asset, its intrinsic value and the professional advice of any employee or appointee who is qualified to advise in the particular field.

## ANNEX G

### Expenditure, Liabilities and Procurement of, Ordering, and Paying for Works, Goods, Services and Assets

#### Section 1: Detailed regulations governing the procurement of, ordering and paying for works, goods and services

##### Regulation E.2

Last updated: September 2015

- 1.a) Every officer and member of the authority must comply with the Ethical Code contained in the Council's Procurement Standing Orders (Section 1, paragraphs 5 and 6).
- 1.b) Official orders must be in a form approved by the Section 151 Officer in conjunction with the Monitoring Officer. Official orders must be issued for all works, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.
- 1.c) Each order must conform to approved procurement guidelines and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Chief Finance Officer.
- 1.d) Apart from petty cash, and other payments from advance accounts, the normal method of payment from the authority shall be by BACS or cheque (or other instrument or approved method), drawn on the Council's approved bank accounts by the Section 151 Officer or a signatory approved by the Section 151 Officer.
- 1.e) Direct debit facilities shall not be set up other than by the Section 151 Officer and no officer shall commit to payment by that means without the prior agreement of the Section 151 Officer.
- 1.f) Arrangements for signing and countersigning cheques and other payments will be determined by the Section 151 Officer. Signing and countersigning limits are set out in the **Schedule of Authorisations, item 14**.
- 1.g) Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of the Council's contracts.
- 1.h) All goods and services may be ordered only by persons authorised to do so in line with each Strategic Director's scheme of delegation and must be correctly recorded.
- 1.i) Goods and services received must be checked to ensure that they are in accordance with the order. The person who placed the order should preferably not receive goods.

- 1.j) Unless specifically agreed with the Section 151 Officer in each instance, advance payment shall not be made for goods or services. The Section 151 Officer may authorise specific categories and/or values of expenditure as standing exceptions to this Regulation, and may amend or delete any such exceptions from time to time. Standing exceptions are recorded in the **Schedule of Authorisations, item 15**.
- 1.k) Payments shall be made to the correct person, for the correct amount and shall be properly recorded, regardless of the payment method.
- 1.l) Payments by the Council shall be made only on an official invoice, except for recurring payments, for contract payments and for other exceptions as may be specifically approved by the Section 151 Officer.
- 1.m) 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.
- 1.n) Expenditure, including VAT, shall be accurately recorded against the correct budget code.
- 1.o) Processes shall be put in place, according to the regulations governing responsibilities, to maintain the security and integrity of data for transacting business electronically.
- 1.p) Invoices shall be settled within the period defined by Government prompt payment requirements. Where invoices are disputed, that fact will be clearly recorded on any invoices together with the date that the dispute was settled before such invoices are passed for payment.
- 1.q) In the case of significant contracts, a financial vetting procedure shall be used to assess the merits of trading with the prospective (or, where appropriate, existing) supplier.

### **Section 2: Responsibilities for procurement of, ordering, and paying for works, goods and services**

Regulation E.4

Last updated: September 2015

#### **Responsibilities of the Section 151 Officer**

- 2.a) The Section 151 Officer shall:
  - i) Ensure that sufficient fidelity guarantee insurance is in place to cover those officers authorised to initiate or make payments.



- ii) Make payments from the Authority's funds on the authorisation of the appropriate officer that the expenditure has been duly incurred in accordance with financial regulations.
- iv) Subject to the receipt of properly signed-off invoices in good time, arrange payment to suppliers promptly.
- iv) Make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- v) Make payments to contractors on the certificate of the appropriate Strategic Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- vi) Determine, in conjunction with the Assistant Director Legal and Democratic Services the form of official orders.
- vii) Agree and determine a scheme for the issue and usage of corporate electronic payment cards where the costs of ordering and procuring is excessive when judged against the value of purchases.
- viii) Approve 'draw-down' arrangements for supplies and provisions covered by annual contracts.
- ix) Maintain a financial vetting procedure for use in selecting and approving prospective (or, where appropriate, existing) suppliers in respect of significant contracts.

### **Responsibilities of Strategic Directors**

#### **2.b) Strategic Directors shall ensure that:**

- i) All procurement practices accord with the Council's policies on procurement.
- ii) Relevant officers authorised to sign orders or certify payments do so with a full signature where done manually or under a password-controlled electronic process. Initialled authorisations will be rejected by the Section 151 Officer's Accounts Payable Team.
- iii) Official orders are used for all goods and services, other than for exceptions specified, and that they are used only for goods and services to be consumed by services under the Director's control.
- iv) The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained where required by these regulations and other instructions.

- v) Goods and services are checked on receipt to verify that they are in accordance with the order. A different officer from the person who authorised the order should where possible, carry out this check. Appropriate entries should then be made in inventories or stores records.
- vi) Payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment. When an authorised officer certifies an invoice for payment, they are confirming:
  - (a.) That the official order procedure has been observed and that Standing Orders are complied with.
  - (b.) Receipt of goods or services.
  - (c.) That the invoice has not previously been paid.
  - (d.) That expenditure has been properly incurred and is within budget provision.
  - (e.) That prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices.
  - (f.) That the correct accounting treatment of tax has been followed in line with guidance issued by the Section 151 Officer.
  - (g.) That the invoice is correctly allocated to an approved budget code under the director's jurisdiction.
  - (h.) That discounts have been taken where available and where it is cost effective for the Council to take them.
  - (i.) That appropriate entries have been made in inventories, stores records or stock books and in accounting records.
- vii) The principle of division of duties is applied wherever practicable. Different members of staff shall be involved in the ordering, receiving and payment processes. Where practical, a different officer from the person who authorised the order, and in every case, a different officer from the person checking an invoice, should authorise the invoice.
- viii) Payments are not made on a photocopied or faxed invoice, statement or document other than the formal invoice.
- ix) Invoices are duly and correctly processed in good time to make payment to suppliers within stipulated timeframes.
- x) Loans, leasing or rental contracts are not entered into without agreement of the Section 151 Officer.

- xi) The Section 151 Officer is notified of outstanding expenditure (formal commitments) relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer.
- xii) With regard to contracts for construction and alterations to buildings and for civil engineering works, that procedures exist to document and agree with the Section 151 Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- xiii) The Section 151 Officer is notified immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- xiv) All appropriate payment records are retained and stored for the period defined by the Council's document retention schedule.
- xv) No Head of Service, Assistant Director or Strategic Director shall commit expenditure against any budget head for which they are not accountable, without the specific and written authority of the accountable budget holder and in accordance with the virement scheme set out in these regulations.
- xvi) Suppliers' invoices are not amended manually.
- xvii) The advice of the Section 151 Officer (or an officer to whom responsibility has been delegated) is obtained in respect of prospective (or where appropriate, existing) suppliers where significant contracts are being considered.

### **Section 3: Responsibilities of Strategic Directors in respect of contracts**

Regulations E.6 & E.9

Last updated: September 2015

- 3.a)** All contracts are subject to the provisions contained in the Council's Procurement Standing Orders.
- 3.b)** Strategic Directors shall be responsible for:
  - i) Maintaining a Contract Register which shall include major contracts (as defined by the Head of Commercial Development) entered into by the Directorate and schedules of payments, retentions, fees and other specific matters relating to each contract let to individual contractors.

- ii) Informing the Head of Commercial Development of all major contracts, and contract extensions entered into.
- iv) Advising the Head of Commercial Development of all relevant contract payments.
- v) Making payments to contractors on account only on approved certificates issued by the authorised Managing Officer or Consultant.
- vi) Ensuring that any variation order is authorised in writing and can be met within the approved budget.
- vii) Where the sum of all variations pertaining to a contract, is likely to result in a cost over-run exceeding a value shown in the **Schedule of Authorisations, item 16**, reporting the potential over-run for approval to both the relevant Portfolio Holder and the Section 151 Officer prior to payment. Such cost over-runs shall be contained within the Portfolio Holder's overall budget allocation.
- viii) Seeking claims for restitution, acceleration of programme or liquidated damages when appropriate.
- ix) Ensuring that the release of retention monies and final payments under a contract are not made prior to checks on contractors' final claims being undertaken by a qualified independent officer.

### **Section 4: Responsibilities for engagement of, and payments to, employees**

Regulation E.11.

Last updated: September 2015

#### **Responsibilities of the Section 151 Officer**

**4.a)** The Section 151 is responsible for:

- i) Calculation and payment of all staff emoluments and entitlements for current and former employees.
- ii) Reconciliation of and reporting on payroll expenditure against approved current budgets and future budget allocations.
- iii) Securely retaining payment details, including pension payments history in accordance with the Council's Document retention schedule.
- iv) Agreeing, where appropriate an advance of pay, on request of a Director.
- v) Ensuring that current HM Revenue and Customs requirements are properly applied and that the correct liabilities are duly accounted for within the statutory periods.

- vi) Providing guidance to Strategic Directors with regard to the Council's potential tax and national insurance liabilities.
- vii) Ensuring those adequate arrangements exists for administering superannuation matters.
- viii) Controlling and paying to third parties sums deducted from pay by Court Order or at the employee's request in a timely manner.

### **Responsibilities of Strategic Directors**

#### **4.b) Strategic Directors shall be responsible for ensuring that:**

- i) Appointments are made in accordance with the regulations and can be afforded within budgets delegated to them.
- ii) The Section 151 Officer is notified of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer.
- iii) Adequate and effective systems and procedures are operated, so that:
  - a.) Payments are only authorised to bona fide employees.
  - b.) Payments are only made where there is a valid entitlement, and budget provision exists to fund employment.
  - c.) Conditions and contracts of employment are correctly applied.
  - d.) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
  - e.) Appropriate time keeping and charging rates are operated, such that Directors are aware of, and may therefore be held accountable for the effective deployment of staff.
- iv) An up-to-date list of the names of officers, authorised to sign records is provided to the Section 151 Officer, or such contractor as may be engaged by him/her together with specimen signatures.
- v) Payment to staff is processed only through the payroll system.
- vi) Careful consideration is given to the employment status of individuals employed on a self-employed consultant or subcontract basis. In cases of doubt, advice should be sought from the Section 151 Officer.
- vii) Travel and subsistence claims and other allowances are appropriately examined and approved. Certification is taken to mean that journeys were

authorised and expenses properly and necessarily incurred. Due consideration should be given to any tax implications affecting claims.

- viii) The Section 151 Officer is notified of the details of any employee benefits in kind, by a date determined by him/her for each year to enable full and complete reporting to HM Revenue and Customs.
- ix) Appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.
- x) Statistical returns are accurately completed by the due date.

### **Travel and subsistence**

**4.c)** The Section 151 Officer shall:

- i) Make all payments in respect of travel and subsistence expenses to employees when properly due and authorised by the appropriate officer.
- ii) Determine the specification of all reimbursement forms to be used.
- iii) Ensure that all employees making expenses claims in respect of the use of their private cars on council business have adequate motor insurance in place.

**4.d)** Strategic Directors shall make arrangements to ensure that:

- i) Claims are properly certified by an officer specifically authorised to do so.
- ii) A current list of authorised officers, with specimen signatures, is provided to the Section 151 Officer.
- iii) The lower of actual costs, or the allowances permitted under the scheme, are certified for payment.

**4.e)** All employees are responsible for ensuring that expense claims are submitted promptly in accordance with timetable specified by the Payroll Client Officer. Claims must be submitted within one month of the date of the expenditure and within the financial year in which the expenditure was incurred. All claims, including claims for mileage incurred on Council business, must be supported by a VAT receipt where VAT is incurred.

### **Section 5: The acquisition of assets**

Regulation E.5

Last updated: October 2021

**5.a)** Asset definitions are given at Annex F. The purchases of these assets shall be authorised under a scheme of delegation as follows:

Postholder	Authorisation Level
	Total asset purchase price
Chief Executive	£500,000
Section 151 Officer	£500,000
Strategic Director	£500,000
Assistant Director	£250,000
Head of Service	£75,000
Team Leader	£25,000

i) Any acquisition with a total purchase price of over £500k in value shall be authorised by Cabinet, with the exception of land or buildings purchased for the Council's Housing Revenue Account new build housing programme and which is 100% funded from the Housing Revenue Account's Strategic Acquisitions reserve.

ii) Authorisation of the acquisition of any land or buildings with a total purchase price of over £500k purchased for the Council's Housing Revenue Account new build housing programme and which is 100% funded from the Housing Revenue Account's Strategic Acquisitions reserve will be delegated to the Strategic Director, Resident Services in consultation with the Chief Finance Officer, the Assistant Director, Legal and Democratic Services, the Portfolio Holder for Housing and Property Services and the Portfolio Holder for Corporate and Commercial Services.

### **Responsibility of the Section 151 Officer**

**5.b)** The Section 151 Officer shall:

- i) Ensure that sufficient fidelity guarantee insurance is in place to cover those officers authorised to initiate or make payments.
- ii) Make payments from the Authority's funds on the authorisation of the appropriate officer that the acquisition is carried out in accordance with financial regulations.

### **Responsibilities of Strategic Directors**

**Strategic** Directors shall ensure that:

- i) Relevant officers authorised to sign orders or certify payments do so with a full signature where done manually or under a password-controlled electronic process.
- ii) No Head of Service, Assistant Director or Strategic Director shall commit expenditure against any budget head for which they are not accountable, without the specific and written authority of the accountable budget holder and in accordance with the virement scheme set out in these regulations.

- iii) The advice of the Section 151 Officer (or an officer to whom responsibility has been delegated) is obtained in respect of prospective (or where appropriate, existing) asset purchases being considered relating to land, buildings or with a purchase price of over £100k .
- iv) The advice of the Assistant Director Legal and Democratic Services or an officer to whom responsibility has been delegated) is obtained in respect of prospective (or where appropriate, existing) asset purchases being considered relating to land, buildings or with a purchase price of over £100k.



## ANNEX H

### Partnerships, External Funding and Third Party Contracts

#### Section 1: Partnerships expectations

Regulation F.2.

Last updated: September 2015

**1.a)** The Council requires that potential partners are aware of their responsibilities under the Authority's Financial Regulations and the procurement requirements. When partnerships are developed, the partners shall agree on which financial regulations and standing orders shall apply as part of the governance arrangements for the partnership. The following expectations should be adapted and written into governance documents, as appropriate

- i) The agreed set of financial regulations governing this partnership will be those of XXXXX [organisation].

Partners will:

- ii) Support the concept of risk management within the partnership and actively work with the Council to ensure that risk management processes are in place to identify and assess all potential risks.
- iii) Ensure that project appraisal processes are in place to demonstrate the viability of the project in terms of resources, staffing, expertise, and expected outcomes.
- iv) Agree and formally endorse the roles and responsibilities of each of the partners involved in the project before the initiative commences.
- v) Communicate regularly with other partners throughout the initiative so that potential problems are identified, shared and successfully resolved.
- vi) Openly and explicitly share a vision of collective and individual expectations.
- vii) Demonstrate an ability and willingness to add real value to any relationship.
- viii) Be open and honest about any conflicts of interest that might arise, and demonstrate a willingness to agree mechanisms to resolve these from the outset.
- ix) Demonstrate a willingness to take on a role in the broader programme appropriate to the skills and resources of the partnering organisations.

- x) Act in good faith at all times and in the best interests of the partnership's aims and objectives.
- xi) Will be comfortable with, support, and comply with the principles of "open-book accounting".
- xii) Hold as confidential any information received as a result of partnership activities or duties that is of a sensitive or confidential nature.
- xiii) Act as champions and ambassadors for the project.

### **Section 2: Responsibilities in respect of partnerships, external funding and third party contracts**

Regulations F.4 & F.6

Last updated: September 2011

- 2.a)** Cabinet is responsible for approving the contractual arrangements for any work proposed to be undertaken for external bodies.

#### **Responsibilities of the Monitoring Officer**

- 2.b)** The Monitoring Officer is responsible for:

- (i) Ensuring that governance and standards of conduct arrangements to be adopted by partnerships and joint ventures are no less stringent than apply to the Council.
- (ii) Ensuring that partnership contractual documentation requires any partner(s) to comply with the agreed Financial Regulations and Procurement Rules unless Council determines otherwise.

#### **Responsibilities of the Section 151 Officer**

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

- (i) Ensuring that accounting, audit, control, governance, and risk management arrangements to be adopted by partnerships and joint ventures are no less stringent than apply to the Council.
- (iii) Ensuring that partnership contractual documentation requires the Partner to comply with the agreed Financial Regulations, to the satisfaction of the Monitoring Officer.
- (iv) Providing advice on the key funding elements of any project, including:
  - Appraisal of financial viability for the current and future years.
  - Risk appraisal and management.

- Resourcing, including taxation issues.
  - Audit, security and control requirements.
  - Budget 'carry-forward' arrangements.
- (iv) Issuing guidance with regard to the financial aspects of third party contracts.
- (v) Ensuring that the Council's accounting and costing conventions identify the fair cost of trading and working for third parties.
- (vi) Maintaining a financial vetting procedure for use in selecting and approving prospective (or, where appropriate, existing) partners in respect of significant contracts.

### **Responsibilities of Strategic Directors**

#### **2.d) Strategic Directors are responsible for:**

- (i) Ensuring that appropriate approvals are obtained before any negotiations are concluded.
- (ii) Maintaining a register of all contracts entered into with external bodies in accordance with procedures specified by the Monitoring Officer and Section 151 Officer.
- (iii) Ensuring that, before entering into agreements with external bodies, a comprehensive risk assessment has been carried out, a risk register drawn up, and appropriate mitigation action taken.
- (iv) Ensuring that such agreements and arrangements do not impact adversely upon the services provided by the Council or other services provided to the Council.
- (v) Ensuring that all agreements, arrangements and contracts are properly documented.
- (vi) Ensuring that partnership contractual documentation requires the Partner to comply with the agreed Financial Regulations, to the satisfaction of the Monitoring Officer.
- (vii) Providing information to the Section 151 Officer as may be required by him/her to enable a note to be entered into the authority's statement of accounts
- (viii) Ensuring that all claims for external funds are made by the due date.

## Dacorum Borough Council Financial Regulations – Annex H

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- (ix) Ensuring that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.
- (x) Informing, where the project is potentially deviating significantly from the plan, his/her Portfolio Holder and the Section 151 Officer as soon as this becomes apparent.
- (xi) Ensuring that records are kept of resource usage and/or service delivery that accord with the requirements of the external funding source.
- (xii) Ensuring that all requirements and stipulations relating to the payment of external funding and the auditing thereof, are understood and acted upon.
- (xiii) Putting appropriate insurances in place through the Section 151 Officer for all dealings with third parties and external partners.
- (xiv) Ensuring, as far as reasonably possible, that the external contracts and partnerships for which they are responsible do not put the Council at risk from bad debts.
- (xv) Ensuring that no contract entered into with third parties is subsidised by the Council either directly or indirectly.
- (xvi) Seeking, wherever possible, payment in advance of the delivery of the service.
- (xvii) Ensuring that the Division/unit has the appropriate expertise to undertake the contract or to manage the contract in a client capacity.
- (xix) Seeking the advice of the S151 Officer (or an officer to whom responsibility has been delegated) is obtained in respect of prospective (or, where appropriate, existing) partners where significant contracts are being considered.

# Dacorum Borough Council Financial Regulations

## DACORUM BOROUGH COUNCIL - FINANCIAL REGULATIONS SCHEDULE OF AUTHORISATIONS

### Item 1. Virement policy – hierarchy of authorisations

Annex B, clause 3.e)

Last updated: September 2015

Type	Applies to transfers between	Sanctioning Authority
1	Between Cabinet Portfolios	Cabinet
2	Between Services within a Portfolio	Strategic Director and Portfolio Holder*
3	Between CIPFA Subjective headings within the same Service	Strategic Director and Head of Service
4	Between budgets both within the same Service and the same CIPFA Subjective heading	Strategic Director and Head of Service
5	For items 2, 3 and 4 above where the amount to be vired is at least <ul style="list-style-type: none"> <li>• £50,000</li> <li>And</li> <li>• 10% of the transferring budget</li> </ul>	Cabinet

All proposed virements shall be subject to review and comment by the Section 151 Officer. They shall determine whether the proposal should be subject to the positive endorsement of a higher authority.

\*\*“Portfolio Holder” means a formal Portfolio Holder decision.

### Item 2. Supplementary budget policy- hierarchy of authorisations

Annex B, clause 4.d)

Last updated: December 2019

Type	Applies to supplementary budget wholly funded by	Sanctioning Authority
1	Reserve balances held	Cabinet, to recommend to Council
2	Grant income	S151 Officer, Strategic Director and Head of Service
3	For item 2 above where the amount is greater than £100k	Cabinet, to recommend to Council
4	S106 income or CIL income	S151 Officer, Strategic Director and Head of Service

## Dacorum Borough Council Financial Regulations

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All proposed supplementary budgets shall be subject to review and comment by the Section 151 Officer. They shall determine whether the proposal should be subject to the positive endorsement of a higher authority.

### Item 3. Limits on cash holdings

Annex C, clause 1.l)

Last updated: September 2015

Maximum limits for cash holdings, in whatever receptacle, shall be agreed with the Section 151 Officer, and shall not be exceeded without his/her express permission and with regard to the appropriate insurance limit. Cash received in total in excess of this amount must be banked within 24 hours. The current limit is:

£500

### Item 4. Changes to Structure - hierarchy of authorisations

Annex C, clause 2.g)

Last updated: September 2015

Where the net effect of any changes is no increase in cost for the current, or a full year, changes may be made to the official structure in accordance with the following hierarchy of authorities. Where a change to the official structure results in an increased net cost, it shall be allowed only on the authority of Cabinet.

Type	Applies to Changes where one or more changes impacts as follows	Sanctioning Authority
1	Between General Fund and HRA Services	Council
2	Between Cabinet Portfolios	Cabinet
3	Between Services within a Portfolio	Strategic Director and Portfolio Holder
4	Between budgets, activities and project provision being the responsibility of an individual Head of Service.	Strategic Director and Head of Service

All proposed changes to the official establishment shall be subject to review and comment by the Section 151 Officer. They shall determine whether the proposal should be subject to the positive endorsement of a higher authority.

In considering the matter, the Section 151 Officer shall satisfy him/herself that all proposed changes will be correctly recorded on the corporate employee database and that all necessary budgetary virements have also been identified and will be implemented.

## Dacorum Borough Council Financial Regulations

### Item 5. Petty Cash, Change Floats, and Electronic Payment Card Purchase Value of cash reimbursements for minor purchases

Annex E, clause 3.e)

Last updated: September 2015

The value of cash reimbursements shall not exceed:

£50.00

### Item 6. Debt write-offs - Hierarchy of authorisations

Annex E, clause 4.f)

Last updated: March 2024

Individual value (per debtor)	Authorised by:	Conditions
Up to £500	Relevant Head of Service, Assistant Director or Head of Financial Services	
Between £500 and £50,000	Section 151 officer in consultation with the appropriate Strategic Director	
Above £50,000	Portfolio Holder for Corporate and Commercial Services on the advice of the Section 151 Officer and Strategic Director	Applicable in situations where a referral to Cabinet (see below) is not necessary
Above £50,000	Cabinet on the advice of the Section 151 Officer and Strategic Director	Where the write off, if approved, would, in the opinion of the Section 151 Officer, have budgetary implications for the relevant service
Any value, where the amount written off will cause the Council's General Fund or Housing Revenue Account to fall into deficit	Council on the advice of the Section 151 Officer	

### Item 7. Debt write-off recovery threshold

Annex E, clause 4.j)

Last updated: September 2015

# Dacorum Borough Council Financial Regulations

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The de-minimis level for debt recovery action and review is determined by the Section 151 Officer and shall be as follows:

£50

## **Item 8. De minimis amount for asset registers**

Annex E, clause 5.c)

Last updated: September 2015

Asset inventories shall be held and kept current by Heads of Service, who will ensure that all areas under their authority have an asset inventory. They shall contain clear descriptions of all fixed and moveable assets, other than land and buildings, having a current value in excess of an amount specified by the Section 151 Officer. This amount is:

£500

Land and buildings are listed in the Asset Management System (see Regulation.C6), and ICT equipment is listed in a separate inventory kept by the relevant Strategic Director.

## **Item 9. Transaction authority level for asset disposals**

Annex F, clause 1.g)

Last updated: September 2015

The Strategic Director of the appropriate directorate and the Council's duly appointed valuer or other agent shall be involved in or appraised of all major steps in the negotiations in respect of transactions or of a series of transactions, the estimated value or the aggregated value of which exceeds the following amount:

£100,000

## **Item 10. Disposal by tender**

Annex F, clause 1.m), ii)

Last updated: September 2015

Disposal by tender may be appropriate where there are two or more prospective purchasers with a foreseeable interest in acquiring the land. This method should be used in preference to Private Treaty where:

- i) more than one prospective purchaser exists, and
- ii) the estimated value of the land exceeds the following amount:



£25,000

## **Item 11. Disposal of equipment**

Annex F, clause 2.a)

Last updated: December 2019

The regulations relating to disposals within Section 2 of this annex apply to all assets specified in clause 2.a) as follows:

11a) those with a value of up to and including £50,000;

11b) those with a value of greater than £50,000 but less than £100k.

## **Item 12. Major reusable items**

Annex F, clause (3.e)

Last updated: July 2017

Disposals of major reusable items must be authorised by the Cabinet where the disposal may achieve a receipt in excess of the following amount:

£50,000

## **Item 13. Disposals of other intangible assets**

Annex F, clause 4.e)

Last updated: July 2017

The appropriate Strategic Director will obtain Cabinet authorisation for the disposal of other intangible assets where the value of the asset(s) to be disposed of exceeds the following amount:

£50,000,

## **Item 14. Hierarchy of authorisations for cheque and electronic payments**

Annex G, clause 1.f)

Last updated: September 2015

Payment by cheque (or any electronic payment) by an amount to be determined by the Section 151 Officer shall be signed by one of those approved to do so by the Section 151 Officer. One authorised officer shall countersign cheques (or any electronic payment) over a value to be determined by the section 151 officer. The values so determined are as follows:

## Dacorum Borough Council Financial Regulations

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<b>Value</b>	<b>Authorising signatories</b>
Up to £40,000	Any one authorised officer (electronic or manual signature)
Above £40,000	Any two authorised officers (electronic or manual signatures )

### **Item 15. Exceptions to advance payments regulations**

Annex G, clause 1.j)

Last updated: September 2015

Advance payment shall not be made for goods or services. The Section 151 Officer may authorise specific categories and/or values of expenditure as standing exceptions to this Regulation, and may amend or delete any such exceptions from time to time. Standing exceptions currently in place are as follows:

Software Support and Maintenance  
Software Licences  
Artists/Performer Fees

### **Item 16. Value of cost-overruns to be reported**

Annex G, clause 3.b) vii)

Last updated: September 2015

Where the sum of all variations pertaining to a contract, is likely to result in a cost over-run exceeding the value shown below, The relevant Head of Service shall report the potential over-run for approval to both the relevant Portfolio Holder and the Section 151 Officer prior to payment:

<b>Value of scheme</b>	<b>Over-run limit</b>
Up to £100,000	£5,000
Above £100,000	10% of value of scheme



**COMMISSIONING &  
PROCUREMENT  
STANDING  
ORDERS**

**2019-2024**

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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# COMMISSIONING & PROCUREMENT STANDING ORDERS

## SECTION ONE INTRODUCTION

### Introduction

- 1 The purpose of these Standing Orders is to support the Council's commissioning & procurement strategy by providing a clear governance framework for officers and members to work within when carrying out commissioning and procurement activities on behalf of the Council.
- 2 The Council's approach to commissioning & procurement follows the commercial cycle and is identified in diagram 1 below;

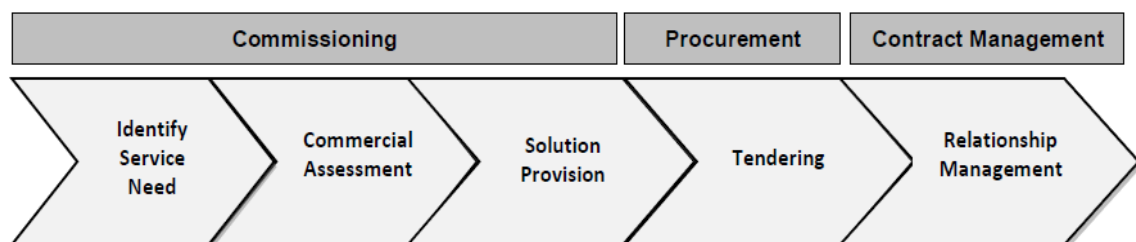


Diagram 1 - Commercial Cycle

### 3. Definition

- 3.1 The process by which public bodies decide how to spend their money to get the best possible services for people, it involves anticipating future needs and expectations rather reacting to present demand.

Commissioning is the first 3 elements of the commercial cycle and involves **identifying the service need** by reviewing the 'as is' provision and consulting with stakeholders to forecast future demand, undertaking a **commercial assessment** by understanding the different markets and funding provisions that are available and by a carrying out a **solution provision** which involves reviewing skills and risk.

- 3.2 Procurement is the **tendering** element of the cycle and includes

- i) the specific aspects of the commissioning cycle that focus on the process of buying services, from initial advertising through to appropriate contract arrangements;
- ii) The purchase of goods, services or works by publicly funded bodies at the best possible total price, in the right quantity and quality, at the right time generally via a contract.

- 3.3 Contract Management refers to **relationship management** and includes managing the performance of the contract and the contractor and developing the relationship between the contractor and the Council to maximise the return on investment.

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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- 4 These Standing Orders apply to the commissioning and procuring in all of the following areas, regardless whether it is funded from revenue or capital expenditure or from grants:
  - a. Supplies
  - b. Services
  - c. Works
  - d. Third Party Contracts (services that are income generating for the provider and/ or zero/low cost for the Council).
  - e. Grants – including strategic partners, annual grants and disabled facility grants etc.
  
- 5 Standing Orders do not apply to:
  - a. Employment contracts (e.g. the Council's own staff)
  - b. Contracts relating to the purchase or sale of land (advice must always be sought from officers of the procurement team).
  - c. Appointment of legal counsel and the appointment of expert witnesses' in legal proceedings

## **Governance Framework**

- 6 These Standing Orders have been drafted in such a way as to simplify the commissioning and procurement process where appropriate, and to provide comprehensive guidance where necessary.
  
- 7 These Standing Orders form part of the Council's Constitution and are required under Section 135 Local Government Act 1972.
  
- 8 The objective of these Standing Orders is to enable the Council to be able to demonstrate that it commissions and procures supplies, services and works contracts in a fair, efficient and economical way, using whole life costing where relevant and ensuring that value for money is obtained through competition.
  
- 9 These Standing Orders intend to promote good practice, transparency, equal treatment, proper accountability, compliance with legislation and deter corruption.

## **Compliance**

- 10 These Standing Orders apply to every officer and member of the Council who is responsible for taking any steps that may lead to a contract being entered into. They have a duty to read, be familiar with, and fully comply with these Standing Orders as they set out the minimum requirements that should be followed when commissioning & procuring on behalf of the Council.
  
11. In addition, the Standing Orders also contain rules which must be followed by the Council and the Cabinet (including Cabinet Portfolio Holders)

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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12. Officers are responsible for ensuring that any agents or consultants acting on the Council's behalf, such as architects, engineers, fully comply with the Standing Orders, Financial Regulations and the Public Contract Regulations where applicable.
13. Failure to comply with the Standing Orders is in direct contravention of the Council's Constitution and is, therefore, a disciplinary offence that could be classed as gross misconduct or breach of contract.
14. Where commissioning and procurement activities are subject to the provisions contained in the Standing Orders, no quotation or tender shall be accepted until all necessary approvals and consents have been obtained and no contract shall be entered into until all documentation has been signed.

## Commissioning and Procurement Strategy

15. The Council's commissioning and procurement strategy sets out how commissioning and procurement activities will support the delivery of the Council's vision and priorities as shown in the corporate plan.  
The commissioning and procurement strategy will shape choices and any subsequent procurement must comply with these Standing Orders and the Financial Regulations.

## Amendments

16. These Standing Orders shall be subject to the following amendment protocol:
  - a. Standing Orders  
Full Council shall be responsible for the approval of and any major amendment of the principal Standing Orders.  
The Council's Monitoring Officer may approve amendments due to changes in legislation and any minor amendments or corrections where they are satisfied that it is appropriate to do so.
  - b. Appendices  
The Council's Monitoring Officer may approve amendments to the appendices where they are satisfied that it is appropriate to do so.

## Advice and guidance

17. If any Officer or Member has any queries or requires advice in relation to these Standing Orders, how they apply to any commissioning or procurement activity, contract or proposed contract, their meaning or how to follow them, then advice must be sought without delay.
18. Sources of advice include:
  - a. Any officer of the commissioning and procurement team

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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- b. Monitoring Officer (Assistant Director of Corporate & Contracted Services)

## **Suspension of the Standing Orders**

19. These Standing Orders will always apply unless a suspension is approved. Details of how to suspend these Standing Orders can be requested by contacting any officer of the commissioning and procurement team.
20. An exemption from the requirement to comply with these Standing Orders may only be made by the Council or the Cabinet or the appropriate Cabinet Portfolio Holder responsible for the service affected by the contract and then only subject to the following requirements:
- 20.1 The special circumstances requiring the suspension must be reported to the Council or the Cabinet or the appropriate Cabinet Portfolio Holder and the Group Manager Procurement & Contracted Services together with a detailed justification for the proposed action, and
- 20.2 The suspension and the special circumstances justifying the exception must be noted and recorded in the Full Council or Cabinet minutes or PH decision record.
21. In the event that a suspension to these Standing Orders needs to be considered, advice should be sought from the Group Manager of Procurement & Contracted Services or the Monitoring Officer as to how to proceed.
22. The suspension of these Standing Orders shall not be permitted if the contract value breaches the financial EU thresholds.



# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## SECTION TWO GENERAL ADVICE AND GUIDANCE

### **General rules**

- 1 Following the rules as set out in these Standing Orders is the best defence against allegations that any commissioning and procurement activity has been concluded incorrectly or fraudulently. Officers and Members undertaking commissioning and procurement activities must comply with these Standing Orders. They lay down minimum requirements and, in some cases, a more thorough procedure may be appropriate for a particular contract.
  
- 2 Procurements up to and including £74,999  
Before commencing any commissioning and procurement activity, and in the interests of good governance, Officers and Members should:
  - 2.1 Check to ensure that you have the necessary authority to commence the commissioning and procurement activity. Refer to Section Five (Quotation Table) on the number of quotations you are required to obtain.
  - 2.2 Check with the budget holder that there is a budgetary provision or an approved supplementary estimate in place.
  - 2.3 Check with the commissioning & procurement unit to whether there is an existing contract in place which should be used.
  - 2.4 Declare any personal, direct or indirect, financial interests in any commissioning and procurement activity, failure to do so is in direct contravention of the Council's Constitution and is, therefore, a disciplinary offence that could be classed as gross misconduct and could lead to a criminal conviction. (See 4.7 for how to make a declaration)
  
- 3 Procurements above £74,999  
Complete the Tender Requisition Form (see Appendix 1) and submit this to an officer from the commissioning and procurement team.

### **All Council Members and Officers must act in an ethical and professional manner whilst undertaking any commissioning and procurement activity**

- 4 Council Members and Officers must seek to uphold and enhance the reputation of the Council by:
  - 4.1 Complying with the relevant Code of Conduct. Officers must comply with the Council's Code of Conduct for Employees. Click on link and select Section 12 – Conduct – Code of Conduct for Employees.

<http://dennis/Docs/Documents/Employment%20Handbook/Employment%20Handbook/Section%2012%20->

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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[%20Employee%20Relations/Section%2012%20-%20Conduct%20-%20Code%20of%20Conduct%20for%20Employees.pdf](#)

Council Members must comply with the Council's Code of Conduct for Members. Click on following link and select Handbook – Code of Conduct.

[http://www.dacorum.gov.uk/docs/default-source/council-democracy/councilconstitution-part-5---codes-and-protocols-\(pdf298-kb\)-opens-in-new-window\).pdf](http://www.dacorum.gov.uk/docs/default-source/council-democracy/councilconstitution-part-5---codes-and-protocols-(pdf298-kb)-opens-in-new-window).pdf)

- 4.2 Maintaining a high standard of integrity in all business and commercial relationships both inside and outside the Council,
- 4.3 Maintaining high professional standards by promoting equal treatment, openness and transparency in all commissioning and procurement activity.
- 4.4 Complying both with the letter and the spirit of:
  - 4.4.1 UK and European Union procurement legislation
  - 4.4.2 Such guidance on professional practice as may be issued from time to time by the Group Manager Procurement & Contracted Services or any officer from the commissioning and procurement team
- 4.5 Rejecting any business practice which might appear improper to a reasonable observer, e.g. where offers of gifts or hospitality could give the appearance of trying to obtain influence or favour. Any offer whether accepted or not must be declared to your manager.
- 4.6 Taking advice from the Group Manager Procurement & Contracted Services, any officer from the commissioning and procurement team and/or the Monitoring Officer when in doubt.
- 4.7 Declaring any personal and/or financial interest and/or conflict of interests using the relevant forms in the Code of Conduct documentation.
- 4.8 Maintaining the confidentiality of information with respect to any quotation or tender submissions.
- 4.9 Ensuring any information given by officers or members in the course of their duties should be true, accurate and fair and never designed to mislead
- 4.10 Bearing in mind the advantages of maintaining a continuing relationship with suppliers, contractors and consultants, Members and Officers should avoid any arrangement which might, in the long term, prevent the effective operation of fair competition

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## What is a contract?

- 5 Contracts are legally binding agreements and, in English law, to be binding, contracts need not be in writing (except for contracts for the sale or lease of land). A contract is made when one person offers to undertake or supply something to another person and that offer is accepted unconditionally by the person to whom the offer was made, who in turn, supplies value (which can be money or moneys worth).
- 6 Contracts may be concluded in writing, by word of mouth, over the telephone, or even by performance. For example, the purchase of a newspaper from a shop, even if unaccompanied by a single spoken word, will constitute a legally binding contract from which legal obligations follow (e.g. to deliver the paper, to pay for it).
- 7 It is not the purpose of these Standing Orders to give a definitive guide on UK contract law. The user of these Standing Orders should, however, be aware that in any commercial dealings with a supplier, contractor or consultant, his or her actions may be deemed in law to have constituted a fully binding legal contract on behalf of the Council. In any case of doubt, advice should be taken from the Group Manager Procurement & Contracted Services or the Monitoring Officer.
- 8 Officers and Members should ensure in all commissioning and procurement activities that the following matters have been complied with:
  - 8.1 The general UK law and, in particular, the provisions of the Public Contracts Regulations. Where the provisions of legislation conflict with these Standing Orders, the legislation will always take precedence.
  - 8.2 E.U. Procurement Directives.
  - 8.3 The Council's Financial Regulations.
  - 8.4 The Commissioning & Procurement Standing Orders.
  - 8.5 Local Government transparency code 2015. The Council has to publish details of any contract, commissioned activity, purchase orders, frameworks or any other legally enforceable agreement for values over £5,000.

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## **SECTION THREE** **DETERMINING THE TYPE OF CONTRACT AND ITS VALUE**

### **Is the Contract for Supplies, Services or Works?**

- 1 It is important to determine between the following classifications of contract before you proceed:
  - 1.1 “Supply” contracts are where goods and supplies are purchased or hired; it also includes energy, water and fuel.
  - 1.2 “Service” contracts are where the service provider is providing time, effort and expertise. Service contracts, e.g. cleaning services, consultancy, fees or advice.
  - 1.3 “Works” contracts are contracts for the carrying out construction or building repairs works or building refurbishments.
- 2 A mixed supply/service or supply/works or service/works contract will be classified according to its predominant value. For example, with a replacement door contract, if the value of the door is more expensive than the value of the fitting of the door, then this would result in the contract being classified as a supply contract. If the value of the fitting of the door was more expensive than the supply of the door, then this would be classified as a works contract.

Further guidance and advice is available from the commissioning & procurement team with regard to the classification of supplies, services and works.

### **Calculating the Value of a Contract**

- 3 In determining the value of a potential contract you must calculate:
  - 3.1 The estimated aggregate value of a series of contracts or a renewable contract is entered into for supplies, services and/or works of a similar type, this must take into account both the annual value as well as the number of years it will operate for:

By way of example, a three-year contract to supply financial advice at £50,000 per year will have an aggregated value of £150,000.
- 4 There shall be no artificial splitting of a contract to avoid the application of the provisions of the Public Contract Regulations and/or these Standing Orders.

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## **SECTION FOUR** **COMMISSIONING**

1. Commissioning is the first 3 elements of the commercial cycle that is used to:
  - assess the needs of the service and the people it will impact upon,
  - design the services to meet those needs,
  - procuring the service by competitive tendering
  - monitor the service after contract award; and review
2. The following should be considered in your commissioning process:
  - 2.1. Allow sufficient time to plan and run the tender process. Refer to Section 4 for guidance on typical timescales
  - 2.2. All necessary legal, financial and professional advice should be taken, and any information from this (e.g. market research or consultants reports) made available in value for money reviews or business cases.
  - 2.3 Use any research or consultants reports to build Social Value into the process early on. Any necessary value for money reviews or business cases should be conducted and appraise the purchasing needs prior to commencing a procurement exercise.
  - 2.4 When writing you specification you must ensure it includes the following
    - Demonstrate a link to the Council's Corporate Plan.
    - Incorporate Social Value either as specific requirement or as part of the evaluation – allowing tenderers to state what they can offer to the local community.
    - any environmental or sustainability requirements – use an Environmental impact assessment;
    - Build in requirements from your Equality Impact Assessment of the service.
    - All relevant strategies of the Council E.g. Business Continuity, Sustainability, Safeguarding, etc. should be incorporated into the written specification (See Appendix 2).
  - 2.5 Consideration should be made as to how the proposed procurement will be monitored, quality assessed and performance measured when in operation and a contract manager should be appointed who is responsible for ensuring the contract delivers as intended,
  - 2.6 Find out if there are alternative and better ways to deliver the service. E.g. an outcome based approach aims to shift the emphasis from what services a provider will offer to what outcomes they will achieve. Consider an options appraisal.
  - 2.7 Any proposed procurement exercise must take into account the Council's risk management strategies, guidance and procedures; the consideration of risks and their subsequent documentation in risk registers with suitable control measures.

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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Insurance cover requirements will need to be considered, if in doubt you should consult the Council's Insurance & risk Lead Officer for advice. Where there is High Risk, High Value or High Profile services at stake, the risk factors must be reported to Cabinet, the Portfolio Holder or the Director or Chief Executive as appropriate. It is good practice to request Business Continuity Plan/Disaster Recovery Plans from tenderers, however for contracts identified as a 'Critical Function' it may be prudent to score these to ensure adequate plans are in place to avoid **any** loss of service due to disasters e.g. fire or flood.

- 2.8 A written detailed specification of the goods, services or works to be procured should be in place before the tender process starts.

**Further guidance can be found in the appendices:**

Writing a Business Case – Appendix 7

Conducting an Options Appraisal – Appendix 9

# COMMISSIONING & PROCUREMENT STANDING ORDERS

The key elements of the commercial cycle are illustrated in the diagram below.

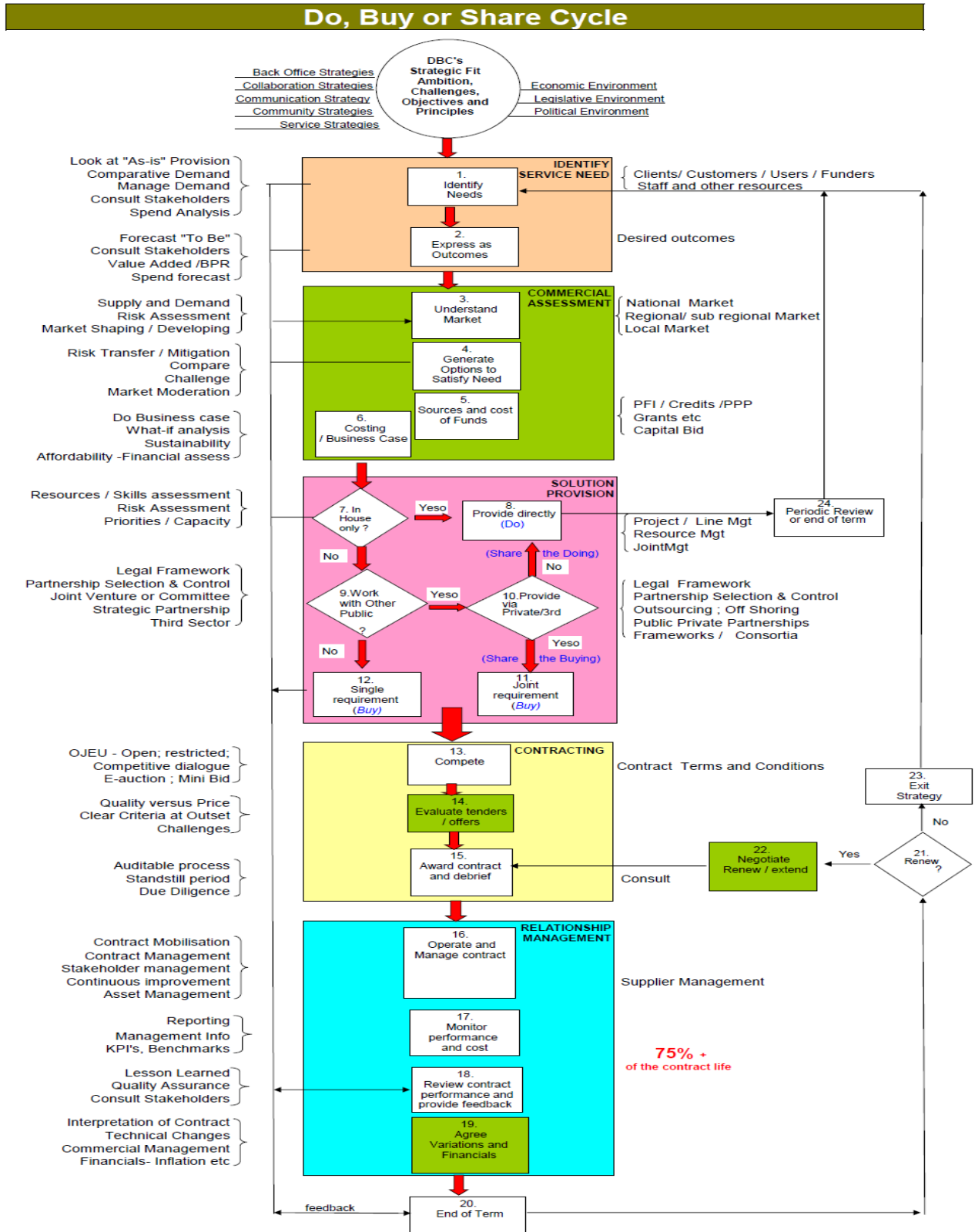


Diagram 4 – Detailed Commercial Cycle

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## FORWARD PLANNING & ALLOWING SUFFICIENT TIME FOR YOUR TENDER PROCESS

### Forward Plan

1. The Forward Procurement Plan is a document detailing potential major contracts and possible tendering opportunities over a 3 year period.
2. The purpose of the plan is to:
  - a. Allow the Council to sufficiently plan and where required carry out a commissioning process prior to carrying out any tendering activity.
  - b. Allow the Council to ensure there is sufficient skills and resources available when carrying out a tendering exercises.
  - c. To raise awareness of Council opportunities for the market to have ample time to prepare.
3. The Commissioning and Procurement Team will utilise the Council's Corporate Contract Register and the Council's Capital Programme to identify upcoming tender opportunities however officers will need to make the Council's commissioning and procurement aware as and when a new opportunity arises. It will be the Group Managers responsibility to ensure the Commissioning and Procurement Team have adequate notice when it comes to carrying out procurement activities.

## TENDER TIMESCALES

Allow sufficient time to plan and run the commissioning and tender process.

The 4 main stages of the process are:

1. The pre tender stages, including any pre-procurement market engagement, deciding on your final specification, evaluation criteria and questions for the tender response document.
2. The tender process. From when the contract notice/OJEU notice is published to completion of the evaluation of the tenders;
3. Approval to Award Process;
4. Lead-in period to contract & contract commencement. Your contract may require a mobilisation process for the new supplier to get ready for the contract start date.

The timescale example shown does not show every transaction in the tendering process, but is designed to give you an overview of the general processes included and the responsibilities of each party. Timescales will vary depending on the type of contract, the tendering process used and the supplier, however a minimum timescale is given as a guide only.

The commissioning and procurement team will produce a project plan for each tender process based on the information provided by the client department.



# COMMISSIONING & PROCUREMENT STANDING ORDERS

## COMMISSIONING & PROCUREMENT PROCESS & TIMESCALES

The following diagram shows an indicative timescale

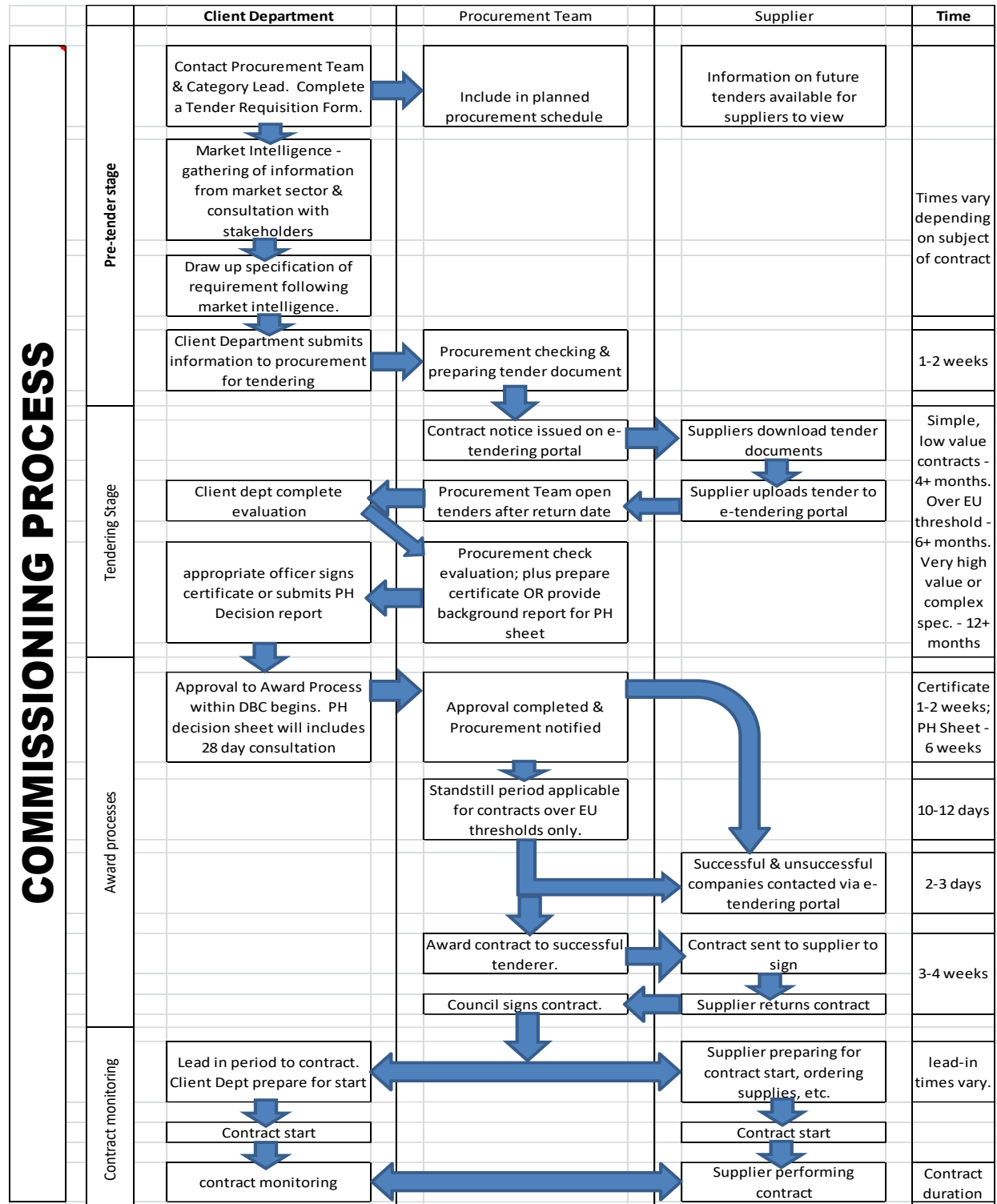


Diagram 3 – Example commissioning and procurement timescale

# COMMISSIONING & PROCUREMENT STANDING ORDERS

## SECTION FIVE

### QUOTATION TABLE - CONTRACT VALUES OF UP TO AND INCLUDING £74,999

For Contract values and purchases up to and including £74,999 quotations should be obtained in accordance with the table below:

Value	Requirements	Approval Process
Up to and including £24,999	<ul style="list-style-type: none"> <li>▪ A minimum of one quotation should be obtained from a local supplier where available.</li> <li>▪ Quotation documents and purchase order/contract records must be retained (see Section 6 for details)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Team Leader or above, is under a duty to seek value for money and take up quotations as appropriate for the supplies, services or works to be delivered.</li> <li>▪ Team Leader or above approve the award of contract via the Agresso finance system</li> <li>▪ A purchase order must be raised through the Agresso finance system for the services, supplies or works.</li> </ul>
From £25,000 up to and including £74,999	<ul style="list-style-type: none"> <li>▪ A minimum of three quotations should be obtained including once from a local supplier where available.</li> <li>▪ Quotation documents and purchase order/contract records must be retained (see Section 6 for details)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Group Manager or above, is under a duty to seek value for money and take up quotations as appropriate for the supplies, services or works to be delivered.</li> <li>▪ Group Manager or above to approve award of contract by signing contract award certificate.</li> <li>▪ A purchase order must be raised through the Agresso finance system for the services, supplies or works</li> </ul>
Framework contracts Up to £74,999	<ul style="list-style-type: none"> <li>▪ As a rule, framework contracts normally require an additional tendering process - even for lower values. You must contact the commissioning &amp; procurement Team for advice</li> </ul>	<ul style="list-style-type: none"> <li>▪ Approval process to be the same as non-framework values</li> </ul>

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## EXCEPTIONS TO QUOTATIONS

Prior authorisation from a member of the commissioning & procurement team is required to award a contract (up to and including £74,999 without undertaking any quotation process and only when one of the following situations apply:

- A framework agreement that has already been awarded by other public sector bodies can be used by the Council provided that:
  - a) the contract has been awarded to a single supplier, or ;
  - b) where there are multiple suppliers, a direct award is permitted by that Contract's terms and conditions ; and the rules for a direct award have been complied with; and
  - c) Use of the framework has been approved by an officer from the commissioning & procurement team.
  
- Urgent supplies, services or works as necessary for the protection of life or property or to maintain the functioning of a public service for which the Council is responsible (or if there are a number of public service implications that also include any responsibility of Hertfordshire County Council).
  
- Supplies, services or works for the repair or enhancement of existing proprietary machinery, plant, equipment, software and maintenance of any of these where there is no other reasonable alternative supplier.
  
- The relevant Group Manager can approve an exception to obtaining quotations providing that a genuine justification is given.

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## SECTION SIX OBTAINING QUOTATIONS

The process for obtaining quotations shall be as follows:

- As indicated in Section 5, quotations can be sought up to and including £74,999.
- If the value is expected to be £25,000 or above, use the Request for Quotation (RFQ) template (see appendix 10) to invite your chosen suppliers to quote via email.
- Include a detailed written specification of your requirements whenever possible (compulsory for values of £25,000 and above).
- Where appropriate invite at least one local supplier to submit a quotation, if expected value is £25,000 and above.
- Evaluate all quotations received and keep all scoring and evaluation notes. Evaluation notes must be factual and based on the evidence provided by a supplier's quotation submission.
- Obtain necessary authorisation to award the contract (see Section 7).
- Inform all bidders in writing of the contract award decision, providing feedback using your evaluation notes.
- Raise a purchase order and produce contract documentation if necessary.
- If monitoring of the contract is required, then ensure arrangements are in place (see Section 14).
- Where the contract value is £25,000 or above then the Officer will need to provide a contract award certificate to be authorised by the relevant Officer.
- No contract shall commence until all documentation is in place.
- If you are seeking quotations for a service that supports a 'Critical Function' for the Council you must request and evaluate the supplier's Business Continuity Plan as part of the evaluation process. A list of the Council's critical functions are listed in the Council's Corporate Business Continuity Plan which can be found on the DENNIS Document Centre in the Resilience folder.

### Records to be maintained where quotations are taken up

- 1 The Group Manager of the procuring service must ensure that all written documentation for quotations are retained for record retention purposes and made available for inspection by the Section 151 Officer, Monitoring Officer or Audit for the greater period of:
  - 1.1 Such timescale that is prescribed by law, or
  - 1.2 A minimum period of six years plus the current financial year, or
  - 1.3 Such period as is prescribed by the Council's Document Retention Procedure. Click on the following link and select DBC 400IM Policy – Retention Schedule Policy version 3\_11 (or latest version)  
<http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2FInformation%20Management%20and%20Security%2FRecords%20Management>
- 2 The records that need to be kept will include:

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- 2.1.1 Invitation to quote (including the Council's written specification) and all quotations received from suppliers.
- 2.1.2 a record of any exemptions or rejections and the reasons for them
- 2.1.3 the reason if the lowest price is not accepted
- 2.1.4 The evaluation spreadsheet, if price is not the only criteria taken into consideration, then the value for money evaluation process must be clearly set out.
- 2.1.5 the contract documents
- 2.1.6 post-contract monitoring
- 2.1.7 Written/electronic records of communications with suppliers submitting quotations and with the successful contractor throughout the period of the contract.

In regard to the records kept you may be ask to provide:

- evidence of these documents to our auditors; or
- Provide FOI information to a supplier about how their submission evaluation notes.

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## SECTION SEVEN

### WHO HAS THE AUTHORITY TO AWARD A CONTRACT?

#### Taking the formal decision to award the contract

- 1 The formal Contracting Decision to award a contract will be based upon the following circumstances:

Decision maker	Authority	Process
An Officer Up to £500,000	<ul style="list-style-type: none"> <li>▪ A contract award certificate is required on all contracts valued at £25,000 and above.</li> <li>▪ A written delegated authority exists under the Council's Constitution to all Team Leaders for contracts up to and including £24,999, Group Managers for contracts up to and including £74,999, all Assistant Directors for contracts up to and including £250,000 and all Corporate Directors for contracts up to and including £500,000.</li> <li>▪ Other delegated authority for specific supplies, services or works for other values may be listed within the Council's Financial Regulations under the 'Scheme of Delegation' - schedules 2 &amp; 3 or by delegated authority granted by Cabinet or Portfolio Holder.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The raising of a requisition/purchase order for contracts valued up to an including £24,999 on Agresso will be deemed to have the authority to award.</li> <li>▪ Where delegated authority exists, the client department must prepare a written contract award certificate (between £25,000 and up to £74,999) or if value if £75,000+ an Officer Decision Record Sheet with the Procurement Report and pass to the Section 151 Officer and the Monitoring Officer for comments;</li> <li>▪ Once statutory comments have been received, the contract award certificate must be signed and dated by the officer who has the delegated authority and returned to the commissioning and procurement team.</li> </ul>
Delegated decisions to specific officers	<ul style="list-style-type: none"> <li>▪ Where Cabinet has delegated a specific decision to a particular officer for determination</li> </ul>	<ul style="list-style-type: none"> <li>▪ Where a particular officer e.g. an Assistant Director has a decision delegated to them in the Council's Constitution, that officer can submit an Officer Decision Record Sheet for values above £500,000.</li> </ul>
Portfolio Holder Above £500,000	<ul style="list-style-type: none"> <li>▪ The Council's scheme of delegation enables Portfolio Holders to award contracts above £500,000 in value in relation to their Portfolio</li> <li>▪ Where Cabinet has delegated a specific decision to a Portfolio Holder for determination</li> </ul>	<ul style="list-style-type: none"> <li>▪ A Portfolio Holder decision will be required in accordance with the Council's Constitution. The client department must prepare a Portfolio Holder Decision Record Sheet which must be submitted to together with the Procurement Report to Statutory Comments for the Section 151 Officer and the Monitoring Officer comments;</li> <li>▪ The procurement team will prepare a Procurement Report</li> </ul>

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		<p>detailing the procurement &amp; tender process, the reason to award the contract and any relevant implications.</p> <ul style="list-style-type: none"> <li>The PH Decision process includes an internal approval process before the public consultation – 28 days. Allow a minimum of 6 weeks’ extra time in your tender timescales for this process. Click on the following link and select PH Decision – Officer Guidance and PH Decision – Timeline.  <a href="http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2FTemplates%20and%20Forms&amp;FolderCTID=0x012000C990015FAD2BBD4D8D6DBCF9CAE03911&amp;View=%7B8E3311E3%2D1A55%2D48AE%2D91C5%2DF86E41D6816D%7D">http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2FTemplates%20and%20Forms&amp;FolderCTID=0x012000C990015FAD2BBD4D8D6DBCF9CAE03911&amp;View=%7B8E3311E3%2D1A55%2D48AE%2D91C5%2DF86E41D6816D%7D</a></li> </ul>
Cabinet	<ul style="list-style-type: none"> <li>The Council’s Constitution deems that the decision is a “key decision” and, therefore, it should be taken by the Cabinet.</li> </ul>	<ul style="list-style-type: none"> <li>A resolution of Cabinet</li> </ul> <p>NB – It is anticipated that High Risk or High Impact contracts will be considered by Cabinet where there is a cross-cutting benefit and/or implication of the award of the contract that could affect more than one portfolio.</p>
Council	<ul style="list-style-type: none"> <li>The Council’s Constitution reserves the power to full Council.</li> </ul>	<ul style="list-style-type: none"> <li>A resolution of Council</li> </ul> <p>NB – Council is only likely to be required to approve to award contracts where there are far-reaching benefits and/or implications to making a decision (e.g. redevelopment agreements etc.)</p>

- 2 In accordance with the Council’s Constitution, where there is any doubt as to who is the appropriate decision maker, the advice should be sought of any officer from the commissioning and procurement team or the Monitoring Officer.

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## **SECTION EIGHT** **CONSULTANTS**

The engagement of a consultant is classified as the commissioning and procurement of a service and should follow that process, there is some additional guidance below that should also be followed when commissioning and procuring consultants.

### **Consultancy brief**

- 1 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a contract of appointment.
- 2 No consultant shall be engaged unless:
  - 2.1 specialist expertise is not available from in-house sources;
  - 2.2 there is a lack of in-house capacity to undertake the project;
  - 2.3 the in-house proposal is not competitive; or
  - 2.4 An independent opinion is required.

### **The selection and appointment of consultants to provide services**

- 3 Consultant architects, engineers, surveyors, project managers and other professional consultants shall be commissioned and procured in accordance with the procedures detailed within these Standing Orders and as outlined below.
- 4 The number of quotations or tenders required in respect of consultancy contracts shall be as detailed in Section 5 – Quotation Table for Contract Values of up to and including £74,999; or Section 9 – Tendering Table for Contract Values of £75,000 and above.
- 5 Officers must always, before seeking quotations or tenders, prepare a detailed brief or specification with the contract terms. The specification must include:
  - a. The outcomes to be achieved by the consultants including significant stages, milestones, reports, etc.
  - b. The basis on which the consultant can charge (e.g. payment when a particular stage is completed).
  - c. When payments are due.
  - d. If expenses or additional disbursements may be charged or if these must be included in tendered/quoted charges.
  - e. If there is an option to extend the contract after the initial period, (this must be taken into consideration when determining the contract value).
  - f. Agreed process and charges for variations to the contract. This is particularly important where the appointment is likely to be for a long period of time.
  - g. A request to provide evidence of the required insurances, in particular access the risk associated with the work to ensure the value of



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professional indemnity insurance cover requested as standard is sufficient for the service being provided. (See also items 10 & 11.)

- h. A request for the consultant to provide a copy of their Business Continuity Plan/Disaster Recovery Plan. This should detail the arrangements the consultant has in place to overcome any disasters to their workplace (e.g. fire or flood) so that work they have done for you is protected and they can quickly carry on delivering the service. In addition you may want to ensure they have sufficient arrangements in place to cover any absences due to illness or staff resignations, to ensure the consultant will be able to continue to provide the service.

- 6 Officers must not permit consultants to:
  - a. Prepare their own brief (or be invited to quote or tender on terms so vague that this is in effect what is happening)
  - b. Produce their own contract terms, unless
    - these are standard terms prescribed by a professional body and agreed with by any officer of the commissioning and procurement team;
    - The value of the contract is below £25,000 **and** the officer has reviewed the terms **and** this has been approved by a member of the commissioning & procurement team.
  - c. Be engaged on a payment by time basis; unless:
    - i. it is the custom in the profession for payment for that kind of work to be on a time basis, or;
    - ii. a quotation for the work cannot be obtained in any other way;

In these cases, an upper financial limit should always be set on the sum payable and there should be arrangements in place to manage and control amounts spent and the commissioning of additional work.

- 7 Officers must make sound arrangements to monitor performance, control costs and ensure that any changes in instructions are properly agreed and recorded in writing (see Section 14). This is particularly important where the appointment is likely to be for a long period of time or to develop a project, rather than to deliver a single goal to a predetermined programme. If extra work is to be agreed, this is an extension and the agreement must comply with the Financial Regulations and these Standing Orders regarding extensions and EU procurement rules relating to aggregation.

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## **Application of Financial Regulations and Procurement Standing Orders to consultant's who act on the Council's behalf**

8 If the Council engages anyone who is not a Council officer to procure or to supervise a contract on its behalf, the contract with that person must require them to comply with these Standing Orders and the Council's Financial Regulations as if they were an officer of the Council.

## **Insurances**

9 A consultant must be required to produce evidence of satisfactory employers and public liability insurance.

10 The consultant must produce satisfactory evidence of professional indemnity insurance unless;

10.1 such insurance is not available in the insurance market;

10.2 the consultant will already have been required to demonstrate such cover as part of their annual or periodic certification process with their professional organisation;

10.3 the nature of the appointment is such that there is no risk to which the Council will be exposed;

10.4 The consultant will be covered by the Council's own insurance arrangements (as may be the case for some locum and similar appointments) and this has been cleared in writing by Section 151 Officer.

11 The amount and terms of the consultant's insurance covers shall be to the satisfaction of the Insurance & Risk Lead Officer. The consultant must not be allowed to recharge the cost of his or her professional indemnity insurance to the Council.

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## SECTION NINE

### TENDERING TABLE FOR CONTRACT VALUES OF £75,000 AND ABOVE

Value	Requirements	Process
Supplies, Services or Works From £75,000 up to EU threshold	<ul style="list-style-type: none"> <li>▪ A fully completed and signed Tender Requisition Form (TRF) must be received by the Commissioning and Procurement Team before the tender can be advertised.</li> <li>▪ Tendering process to be complied with (see section ten onwards)</li> <li>▪ A Procurement Report must be obtained from Procurement to be attached to your certificate or ODRS prior to approval.</li> <li>▪ The contract must be signed by both parties before the contract commences.</li> <li>▪ Details of contracts must be entered on to the contract register.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Assistant Director to approve award of contract up to and including £250,000 by signing an Officer Decision Record Sheet (ODRS).</li> <li>▪ Chief Officer to approve award of contract up to and including £500,000 by signing a contract award certificate or ODRS.</li> <li>▪ All contract values above £500,000 will require a PH Decision (unless delegated authority has been given by Cabinet or via a PH Decision).</li> <li>▪ A purchase order must be raised through the Agresso finance system for the services, supplies or works</li> </ul>
EU threshold and above	<ul style="list-style-type: none"> <li>▪ A fully completed and signed Tender Requisition Form (TRF) must be received by the Commissioning and Procurement Team before the tender can be advertised.</li> <li>▪ Tendering process to be complied with (see section ten onwards)</li> <li>▪ A Procurement Report must be obtained from Procurement to be attached to your certificate or ODRS prior to approval.</li> <li>▪ The contract must be signed by both parties before the contract commences.</li> <li>▪ Details of contracts must be entered on to the contract register.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Assistant Director to approve award of contract up to and including £250,000 by signing an Officer Decision Record Sheet (ODRS).</li> <li>▪ Chief Officer to approve award of contract up to and including £500,000 by signing a contract award certificate.</li> <li>▪ All contract values above £500,000 will require a PH Decision (unless delegated authority has been given by Cabinet or via a PH Decision).</li> <li>▪ A purchase order must be raised through the Agresso finance system for the services, supplies or works</li> </ul>
Using framework agreements for a value of £75,000 and over, including	<ul style="list-style-type: none"> <li>• A fully completed and signed Tender Requisition Form (TRF) must be received by the</li> </ul>	Approval process to be same as non-framework contract values.

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<p>OJEU values</p>	<p>Commissioning and Procurement Team</p> <ul style="list-style-type: none"> <li>• The terms and conditions of using the framework must be complied with.</li> <li>• Direct awards (if allowed by the framework) must be also approved by an officer in the commissioning &amp; procurement team.</li> <li>• The mini-competition process of the framework must be complied with</li> <li>• The contract must be signed by both parties before the contract commences.</li> <li>• Details of contracts must be entered on to the contract register.</li> </ul>	
<p>Collaborative Procurements</p>	<ul style="list-style-type: none"> <li>▪ Approval to collaborate on procurements to be approved by any officer of the procurement team</li> <li>▪ Tenders must be advertised in accordance with the rules of the lead authority.</li> <li>▪ Details of contracts must be entered on to the contract register of the lead authority.</li> </ul>	<p>Approval process for each authority to be as per the rules for that authority.</p>

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## **SECTION TEN** **GUIDANCE ON WRITING A SPECIFICATION**

### **1. Introduction**

Give a brief introduction to the Council, an outline of the Department's role and the main functions carried out.

### **2. Background**

Provide some background information to help tenderers see the requirements in context. Subjects to cover can include an overview of business objectives, national strategies, guidance/frameworks, surveys carried out or previous results that are relevant to the contract. If there are any minimum requirements then this should be made clear here.

### **3. Contract Period**

Consider the duration of the contract. The contract period should ensure that the department achieves the maximum return on their investment.

- Longer term contracts will give the contractor more certainty in relation to the investment and should secure better value for money than short term contracts.
- Consultancy contracts may be viewed as short term requirements initially, but it may be prudent to include an option to extend should the outcome result in additional work being required.
- Annual optional extensions for recurring contracts should only be included where there are uncertainties in funding.

### **4. Scope of the Contract**

This will provide tenderers with the broad scope of the contract and should cover what is included and excluded. This should be a general description to set the contract into context.

### **5. Detailed Requirements**

This section sets out the detailed requirements the tenderer is required to meet. You will need to define exactly what the tenderers need to know in order to deliver the right goods or services at the right time, in the right place, in the right quantity and at the right price. (e.g. volumes; timescales; deliverables, quality expected; reporting structures; resources available from the contracting authority; governance arrangements; requirements for contingencies/business continuity; etc.)

The requirements may be split into two forms as described below 'Functional' and 'Performance' and dependent upon the requirements, they may both be used or stand alone.

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## 5.1 Functional Requirements

These requirements define the task or desired result by focusing on what is to be achieved, rather than by describing the way it is to be achieved. This challenges tenderers to use their skills and develop smart, creative solutions.

Specifying requirements in terms of outcomes, outputs or functions gives potential tenderers the opportunity to propose innovative solutions (or simply be more creative in their proposals), and also means the responsibility for ensuring the solution meets the requirement rests with the tenderer rather than the Department.

- Use the information you have gathered in your research to shape your requirements.
- Be aware of any legislation that will apply to the contract
- Incorporate any Council policies or strategies that apply, e.g. business continuity, sustainability, safeguarding, etc. (see Appendix 2).
- Be realistic about what your budget can afford.
- Consider the range of providers, both large and small, who could provide the service.
- If your level 2 business continuity plan has identified any critical functions that are delivered by an external service provider, you must ensure that a robust business continuity plan is requested in your specification as part of the tender return, this can either be as a minimum requirement, or preferably is evaluated as part of the tender evaluation and then included as part of the contractual documentation.

Use a heading structure that subdivides the requirement into logical areas that map onto the evaluation model which will set out the criteria by which all tender responses will be assessed. The outputs should also be clearly linked to the payment profile/schedule.

## 5.2 Performance Requirements

These requirements detail the performance required of the solution by setting out details of inputs and outputs. Example performance measures are:

- throughput – the volume of inputs that can be handled within a specified time;
- accuracy – the number of outputs that are error free (usually expressed as a percentage);
- Availability – the time the solution is able to be used as a percentage of the time it is supposed to be able to be used.
- Standards – compliance with/performance to the relevant European Standards (or equivalent)

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## 5.3 Mandatory Requirements

Some requirements may be considered to be mandatory and this section should also be used to clearly detail any such requirements. These must be considered to be essential to the contract and should not discriminate unfairly because tenderers can be rejected for failing to meet them.

- Within this section, Departments may also wish to consider requirements around:
- Hours of Service/Delivery - The Department should consider what hours of service may be required e.g. Mon-Fri 9.-5pm, Public Holidays etc. and ensure specific delivery times, locations and turnaround times are specified where relevant.
- Security of data – If data will be collected, stored or used by the Contractors, then data security requirements should be outlined, so that clear obligations may be placed on the processor:
  - The subject matter and duration of the process;
  - The nature and purpose of processing;
  - The type of personal data and categories of data subjects; and
  - The obligations and rights of the controller.
- The terms and conditions cover GDPR and there is a schedule in the tender response document for tenderers to complete regarding the tenderers processing for GDPR
- Exit Strategy - Consideration should be given to whether an exit strategy is required for when the contract comes to an end and a new contractor is appointed. This will be particularly relevant if data is held by the contractor.
- Relevant experience of providing this type of service during the last three years.
- If an external company is already providing this service, then TUPE may apply and you will need to seek further advice from legal services

If an external company is already providing this service, then TUPE may apply and you will need to seek further advice from legal services

## 5.4 Timescales/Timetable

If it is essential that the required Service is delivered to particular timescales or key stages completed by certain dates, then this information should be provided.

In addition you can ask them to provide a project plan showing key milestones against timescales in the tender response.

## 6. Contract Management, Service Levels and Key Performance Indicators (KPIs)

You must be clear about what type of contract reports the Council requires back and the frequency of meetings/update reviews that are required. DBCs Standing orders state that Contract Managers should meet with contractors/suppliers at least once a quarter. Some contracts may need more frequent meetings, e.g. every month, others

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may benefit from monthly meetings at the start of the contract term and then change to quarterly.

Whether in terms of quality or in terms of timeliness, service levels and Key Performance Indicators (KPIs) should be included in a specification. You must be able to measure the contractor's performance delivery and the specification must provide information of any service levels and/or KPIs that the contractor will be monitored against. The frequency of the monitoring must also be included to ensure a robust management regime.

Some service levels and KPIs are easily defined by reference to existing operations, SLAs etc. Where this is not the case, they need to be defined with users and can be informed by benchmarking information. It is important to set any performance measures at the right level:

- too high and they can be costly: the cost of meeting the higher performance level can be higher than the additional benefit obtained; and
- Too low and users' expectations will not be met, and there may be a detrimental effect on the business.

KPIs should be clearly linked to the specification and payment regime to allow performance failure to be tracked and reflected in payment abatement.

The service levels and KPIs which will be monitored should be outlined in the Monitoring Schedule.

## 7. Prices & Payment

Tenderers will be asked to include all their prices in the pricing schedule in the Tender Response document, so this section should set out any rules for the prices they charge, how this needs to be shown in the schedule; and when they can expect to receive payment. You should consider the following elements:

- Is pricing to be firm for the whole of the contract period, or will they be permitted increases at any point during the contract term;
- All prices and hourly rates in the tender submission should include all travelling costs, subsistence and expenses;
- Frequency of payment – should this be on regular basis or will this be triggered by satisfactory completion of key stages of the work.

The Councils standard payment terms (30 days from invoice date) will be included in the terms and conditions of contract.



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## 8. Business Continuity Plans & Disaster Recover Plans

Is this a service that has been identified as a critical function in your level 2 Business Continuity Plan?

- If YES then you need to specify, request and score the tenderers Business Continuity Plan (BCP) as part of the evaluation process.
- If NO then still consider the benefits of asking for their BCP to ensure they have plans in place to guarantee continuity of the service should their business be affected by fire or flood.

## 9. Social Value

The Council is obliged to consider including Social Value in contracts that exceed the EU threshold (£181,000). This can include Social, Environmental or Economic benefits for the local community.

If you identify a specific social value in the commissioning process you can embed this requirement in the contract specification, alternatively you can ask tenderers to put forward their own social value in their tender response which you can score as part of the evaluation.

## 10. Other Matters

The following matters should be included if relevant to the contract. These have only been listed as bullet points, so you will need to contact the relevant departments (in brackets) for each if you need further advice:

- Sustainability & Environmental (Finance)
- Safeguarding – if the service will involve the supplier being in contact with vulnerable adults or children then this should be made clear in the detailed requirements and DBS checks will be required (Human Resources)
- TUPE – ask the current supplier if TUPE applies, if yes then you will need to make this clear in both the contract notice and the tender specification. Ensure that further time is factored into your tender timetable to allow for requests for TUPE information form tenderers and to allow the existing supplier to consult with their staff, contact HR for further advice.
- Are there any specific health & safety implications (H & S Officer)
- Risk Management Assessments (Insurance)
- Equality Impact Assessments (Human Resources)
- Works contracts – have CDM regulations been taken account of (Procurement)
- Software contracts – have you consulted with the ICT – Group Manager to discuss your requirements
- Consultant contracts – consider the need to build in extensions to contracts, should additional similar work be requirement following the original contract, or appearance at public enquiries.

### CHANGES THAT CAN OCCUR DURING THE LIFETIME OF A CONTRACT

To try and identify some changes that might occur during the lifetime of a contract here are some questions you may wish to consider:

- 1. Careful thought should be given to the duration of the contract.** Is there a possibility the contract may need to be extended? In construction or professional services contracts, it may sometimes be desirable to retain the professionals for a short period following completion of the building or consultancy work for additional advice or pieces of work, and this needs to be taken account of in the period of the contract that is specified.
- 2. Is there a possibility the value of the contract will either increase or decrease** (e.g. more money becomes available in a monitoring round or new users come online which results in a greater than anticipated spend or budget reductions result in a lower than anticipated spend)?
- 3. Will the contract prices need to be adjusted in line with a price index such as the Consumer Price Index (CPI)?** Consider this as part of the specification and use a relevant index.
- 4. Is there a likelihood that legislation may change or that minor changes may need to be made?** There are clauses in the standard Terms and Conditions of Contract which cater for changes in law, there is also a Change control procedure which will allow for minor (mutually agreed) changes to the contract.
- 5. How can the contract be future proofed to cater for changes to technology?** Have you considered hardware and software refresh needs (e.g. future releases and developments and interoperability with other IT systems)? Pre-market engagement might help identify new technologies which may become available further down the line.
- 6. How, during the lifetime of the contract, can innovation and continuous improvement be encouraged to identify better ways of doing things** (e.g. through gain/profit share). Pre-market engagement might assist with this. The contract could include a requirement that during year X there will be a meeting between the contractor and the client to identify cost savings across the remainder of the period.

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## **SECTION ELEVEN.** **TENDERING RULES**

1. The way the Council conducts its procurement activities will depend on both the value and the legislation that applies.  
Although tenders that are below the OJEU thresholds need not comply with the Public Contracts Regulations 2015, the principles of the Regulations with regards to openness, transparency and equal treatment still apply to all tendering activities of the Council, regardless of the value. In all circumstances officers are required to consult the commissioning and procurement team before any activity has commenced. The commissioning and procurement team will advise on the most appropriate route for the supplies, services or works to be tendered and on the timescales required.

Where supplies, services or works are included under a corporate contract then under no circumstances shall other arrangements be entered into without the prior consent of the commissioning and procurement team.

The commissioning and procurement team will carry out all procurement activities for contracts valued at £75,000 and above, unless the Group Manager Procurement & Contracted Services has agreed in writing to the tender being undertaken as a collaborative arrangement with another organisation undertaking the lead authority role.

### **2. Completion of a Tender Requisition Form**

Client officers will be required to fully complete a Tender Requisition Form (TRF) before the commissioning process commences using the standard form that is maintained by the Corporate Procurement Team (see Appendix 1). (When tendering for fleet vehicles a Corporate Fleet Application Form can be used instead of a TRF)

The TRF shall set out:

- 2.1 The requirement and award criteria
- 2.2 The rationale which may include a business case or options appraisals
- 2.3 details of any legal or workforce considerations, such as TUPE that need to be taken into account
- 2.4 For complex procurements (those which are very high value or have legal or workforce implications), the TRF must be signed by the proposed contract decision maker prior to commencing any tendering procedures.
- 2.5 Where material issues identified in the TRF impact upon the procurement (e.g. difficulties with the current service provision, etc.) then these matters shall be reflected in the tender documentation and tenderers will be required to address such matters in their tender submissions.

### **3. Using a Prior Information Notice (PIN)**

When is it appropriate to issue a Prior Information Notice (PIN)?

A PIN can be issued by the Council for the following situations:

- Issued at the beginning of a financial year, it can detail all the tenders (over EU thresholds) to be commenced over the financial year.

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- Following the decision to authorise a programme of public works
- It may be useful in creating market interest for particular tender requirements and to collect information for your specification.

The following rules will apply when a PIN is used:

- A standard PIN form must be completed – you should contact the Procurement Team who will be able to guide you through the process.
- Using a PIN will reduce some of the minimum timescales

## 4. **Contract Notice / Public Notice**

All tender notice requirements can be accessed via the Council's e-tendering portal.

The following conditions will apply to each tender notice:

- The tender notice must be advertised via the Council's e-tendering portal
- All tender opportunities that are below the OJEU threshold must also be advertised on the Contracts Finder website.
- Where the contract value exceeds the OJEU threshold, the tender notice must be published in the Official Journal of the European Union before it is made available on the portal or in Contracts Finder, and must comply with the requirements of EU legislation

It is the responsibility of potential bidders to register on the Council's e-tendering portal; however, officers can inform potential bidders where the portal is located.

## 5. **Tendering Procedures**

The two most common methods of tendering are the open and the restricted procedures. Timescales will depend on the requirements of the tender. Tenders subject to EU legislation are subject to strict rules and minimum timescales.

## 6. **Open Tender**

This is a single stage tender process:

Following the issue of a contract notice, Invitation to Tender (ITT) documentation will be made available on the e-tendering portal for any interested supplier to view and download.

Any minimum requirements for tenderers must be stated in the contract notice and the ITT documentation. All bids must be submitted back to the Council via the e-tendering portal.

All tenders received must be evaluated unless they do not satisfy the minimum criteria, in which case they will be rejected and not scored.

## 7. **Restricted Tender**

This is a two stage tender process which can only be used on supplies and/or services tenders above the EU threshold. For works tenders a PAS91 should be used.

Stage one – following the issue of a contract notice a Supplier Selection Questionnaire (SQ) will be made available on the e-tendering portal for any interested supplier to view and download. The purpose of a SQ is to assess the

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resources and capability of suppliers to identify those who are most capable of performing the contract. There are restrictions as to the questions you can ask (and evaluate) in the SQ – see section below on Selection Criteria.

Completed SQs will be evaluated against selection criteria and a number of the most capable suppliers will be selected to be included in the next stage.

Stage Two – Invitation to Tender (ITT) the selected suppliers (from stage one) will be sent an ITT.

All bids must be submitted back to the Council via the e-tendering portal.

All tenders must be evaluated in accordance with the Award Criteria stated in the ITT documents.

## **8. Other Procedures for tenders subject to EU legislation.**

Other tendering procedures can be used for tenders subject to the Public Contract Regulations 2015. These include the competitive procedure with negotiation and competitive dialogue. The Concession Contract Regulations 2016 can also be used for concession contracts (which has different thresholds). Any of these should only be used with the approval of the Group Manager – Procurement & Contracted Services or the Monitoring Officer.

## **9. Instructions to Tenderers**

All persons who request the tender documents must be provided with the same information and be subject to the same conditions. Any supplementary information must be given on the same basis.

## **10. Timescales for tender returns**

Where tender values are at EU thresholds or above, then the timescales specified in the Public Contract Regulations will apply.

For below EU threshold tenders, a minimum of three weeks should be allowed for the submission on tenders. Shorter timescales can only be permitted with the written approval of the Group Manager – Procurement & Contracted Services.

Tenderers must be given an adequate period of time to prepare a tender submission and the timescales for tender returns must be appropriate to the complexity of the tender requirements

Tender return dates may be extended (subject to the advice from an officer from commissioning and procurement) provided all tenderers are notified of the new return date and time.

## **11. Receipt of tenders (including Supplier Selection Questionnaires)**

All tenders must be submitted through the Council's e-tendering portal by the return date and time specified on the e-tendering portal.

Any tenders sent by e-mail or fax will not be accepted.

Any tender sent after the return date and time will automatically be rejected by the e-tendering portal.

It will be the responsibility of the tenderers to allow sufficient time to upload their tender submissions

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## 12. Selection Criteria and Award Criteria.

The commissioning and procurement team will be able to advise on suitable criteria and the rules surrounding these, however a brief explanation of each is given below.

## 13. Selection Criteria.

Selection criteria are used at the SQ stage. The criteria and how it will be scored must be stated clearly in the SQ documentation. Any questions asked (and included in the scoring) must be in relation to their:

- economic & financial standing – see Financial vetting below
- technical & professional ability
- criteria for rejection

## 14. Evaluation Criteria

The majority of tenders are evaluated on the Most Economically Advantageous Tender (MEAT). This is a mixture of the criteria which can include: price, quality, technical merit, Technical ability, aesthetic & functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales service, technical assistance, delivery date, delivery period and period of completion.

Price should always be evaluated on a whole life cost basis

The criteria must be linked to the subject matter of the contract and the weighting should be proportionate and must be stated in the tender documents with the corresponding scoring.

When using the open procedure is it also acceptable to state some minimum criteria (on a pass/fail basis) regarding the tenderers previous experience or technical skills/qualifications.

## 15. Financial vetting

15.1 In accordance with Financial Regulations, the Section 151 Officer's procedures in relation to Financial Vetting shall apply to tender exercises above £75,000 or where deemed necessary by the Council's Commissioning and Procurement Team or the Council's Financial Services Team.

15.2 For a single stage tender process (open tender) the Council will always carry out a financial appraisal on the winning bidder prior to obtaining formal approval to award the contract.

15.3 For a two stage tender process (restricted tender) the Council will carry out a financial appraisal on all bidders who submit a Standard Selection Questionnaire (SQ) or a PAS 91 Pre-Qualification Questionnaire (PQQ). The Council may also choose to carry out further financial vetting on the winning bidder prior to obtaining formal award. This decision will rest with the Council Section 151 Officer.

15.4 Where an assessment has been carried out in accordance with the Financial Vetting Procedure, proper advice shall be taken from the

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Section 151 Officer or Group Manager of Financial Services as to the level and scale of securities such as:

15.4.1 Bonds

15.4.2 Parent company guarantees

15.4.3 Deposits

15.4.4 Guarantees

## 16. Insurances

All potential contractors should be required to produce evidence of insurance,

15.1 Employers liability,

15.2 Public liability,

15.3 Professional Indemnity (professional negligence)

15.4 Bonds etc.

15.5 Products cover

To such standards as may be prescribed the Section 151 Officer or Insurance & Risk Manager and the required values are set out in Appendix Eleven.

## 17. Opening of Tenders

The e-tendering portal will only allow for tender returns to be opened once the tender return date has closed for bidders.

## 18. Acceptance and evaluation of tenders

17.1 Where the minimum number of tenders to be invited has not been received (Restricted procedure only) written agreement to proceed to the evaluation of the tenders must be obtained by any officer of the procurement team.

17.2 All arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender.

17.3 In the event that post tender submission clarifications are required, advice should be obtained by any officer from the procurement team prior to providing any clarifications via the e-tendering portal.

17.4 Tenders must be evaluated and awarded in accordance with the evaluation criteria. During this process, Officers shall ensure that the tender price of the highest scoring tenderer is within the budget allocated, prior to obtaining approval for award.

## 19. Notifying tenderers on the outcome of the tender exercise and De-brief on the tender scoring.

18.1 Written approval in the form of a signed 'Award Certificate', an Officer Decision Record Sheet (ODRS) published on 'Modern Gov' or a signed 'PH Decision Sheet' must be in place before notifying tenderers on the outcome of a tender exercise.

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- 18.2 Both successful and unsuccessful tenderers must be notified simultaneously via the e-tendering portal, as soon as possible after the decision to accept the winning tender has been approved. Contract award notification template letters are available from the commissioning and procurement team.
- 18.3 If the tender is subject to Public Contract Regulations - a 'standstill' period' (also known as the Alcatel period) will apply, during which unsuccessful tenderers may challenge the decision. The standstill period timescale will be a minimum of ten consecutive days which will commence on the next working date after the tenderers are notified and will end ten days later unless the tenth day is not a working day in which case the last standstill day will be the next working day.
- 18.4 If a decision is challenged by an unsuccessful tenderer during the standstill period then the contract must not be entered into and the Officer must immediately seek the advice of the Group Manager - Procurement & Contracted Services.
- 18.5 The de-brief letter sent to each unsuccessful bidder must show for each of the award criteria the score of the winning bid, the score of the unsuccessful tenderer and notes on how the unsuccessful tender submission compared to the characteristics and relative advantages of the winning bid. No other information should be given without the advice of the Group Manager Procurement & Contracted Services.
- 20. Award Notice for:  
Contracts over EU thresholds**  
As soon as the contract has been signed it is a mandatory requirement to submit an award notice which will appear in the Official Journal of the European Union (OJEU) and the e-tendering portal. The award notice must be completed through the e-tendering portal.
- 21. Under EU thresholds**  
For below EU threshold contracts, the submission of an award notice must be undertaken on the e-tendering portal and published on Contracts Finder.
- 22. Records to be maintained**
- 21.1 Pre-tender information including: market research and any consultation information, business cases, options appraisals and reports including reports obtained from any external organisations e.g. consultants.
- 21.2 The Tender Requisition Form
- 21.3 All tenders projects must be archived on the e-tendering portal and all tender communications and decisions records maintained by the commissioning and procurement team and made available for inspection by the Section 151 and Monitoring Officers for the greater of:
- 21.3.1 Such timescale that is prescribed by law, or
- 21.3.2 A minimum period of six years plus the current financial year, or



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21.3.3 Such period as is prescribed by the Council's Document Retention Procedure.

21.4 Records to be maintained for all tenders:

21.4.1 All pre-qualification questionnaire documentation and all tender documentation made available to the tenderers

21.4.2 All communications regarding clarification on SQ and tender documentation from the potential tenderers.

21.4.3 All tender submissions

21.4.4 Evaluation documentation which must include the award criteria, the evaluation matrix, scores awarded to each tenderers against each criteria and the corresponding reasons for each score.

21.4.5 Award Decision (e.g. the contract award certificate, ODRS or the PH Decision Sheet) and the reasons for it

21.4.6 Any tendering exceptions together with the reasons for it

21.4.7 All tender clarification communications

21.4.8 The signed contract documents

21.4.9 All contract monitoring documentation during the contract period.

## 23. Framework Agreements

A 'framework agreement' is '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.'

## 24. Using another organisations framework agreement

A framework agreement can only be used providing the following criteria are satisfied:

- The Council is legally entitled to use the framework contract.
- The goods, services or works to be procured must properly fall within the framework contract.
- The framework contract must comply with EU legislation (where these apply) and meet these Standing Orders
- Unless a direct award is permitted under the framework; a further mini-competition process must be run which must include inviting all the suppliers on the framework for the goods, services or works required. This is sometimes referred to as a 'mini-tender' competition
- The terms and conditions of the framework will apply.
- The award criteria stated in the framework contract must be used to evaluate any tender submissions.

## 25. Tendering for a framework agreement

- The term of a framework must not exceed four years except in exceptional circumstances.
- The framework must comply with the Public Contract Regulations 2015 and these Standing Orders.

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- A framework agreement may be awarded to one provider; however, when it is decided to award to more than one provider on a multi-supplier framework this must be a minimum of two.
- The tender advert must clearly state all of the public sector organisations which will be able to access the framework contract.

## 26. Collaborative Contracts

These are contracts involving procurement with one or more public sector bodies.

25.1 In order to secure value for money, the Council may enter into collaborative procurement arrangements. The Officer must take advice from the Group Manager Procurement & Contracted Services where procurement is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

25.2 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation will be deemed to comply with these Standing Orders and no exemption is required. However, where such a situation occurs, the written advice of the Group Manager Procurement & Contracted Services must have been taken prior to letting a contract or granting an extension.

## 27. Extensions to Existing Contracts

A contract can only be extended if the option to extend has been allowed for within the terms of the existing contract, for the period specified, and where it is in the Council's interests to extend the arrangement on same terms and pricing as in the initial contract period.

26.1 Any extension must be:

26.1.1 fully documented

26.1.2 subject to a written report to be submitted to the Group Manager Procurement & Contracted Services; which shall include reasons for the extension

26.1.3 Subject to approval by the Officer with the relevant authority who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are in the interests of the Council.

26.1.4 subject to the EU procurement rules and, in particular, the maximum duration of framework agreements and the aggregations rules. A contract extension cannot operate in breach of EU law.

In the event that the Officer with the relevant authority believes that the proposed extension is a "key decision", then full consideration must be given to whether the decision to extend the contract needs to be referred to the Portfolio Holder or Cabinet as may be appropriate under the circumstances.

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## 28. Starting work

- 27.1 the Supplier/Contractor must not be allowed to start on a contract until all the contract documentation is in place and the Supplier/Contractor and the Council has signed it or the contract has been executed if under seal.

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## SECTION TWELVE TENDERING EXCEPTIONS

These tendering exceptions do not apply to contract values of EU threshold and above unless it is specifically stated. A contract award certificate, or Officer Decision Record Sheet will need to be produced for any contract awarded using a tendering exception. Only members of the commissioning and procurement team can authorise the use of these exceptions.

- 1 Framework agreements that have already been awarded by other public sector bodies can be used by the Council provided such use is permitted by that Contract's terms and conditions and subject to the approval of any officer from the procurement team. Provided that the tendering of the framework has complied with the Public Contract Regulations 2015, then this exception can be used for values over the EU threshold
- 2 Tenders may also be dispensed with where the proposed contract genuinely falls within one of the following exceptions:
  - 2.1 Quotations up to and including £74,999 in respect of supplies, services or works. Quotation procedures must comply with Sections 5 & 6 of the Procurement Standing orders. In any event, the placing of an order must be carried out in accordance with the Council's Financial Regulations.
  - 2.2 Urgent supplies, services or works as necessary for the protection of life or property or to maintain the functioning of a public service for which the Council is responsible (or if there are a number of public service implications that also include any responsibility of Hertfordshire County Council). A record of the supplies, services or works together with the nature of the urgency must be passed to the Group Manager – Procurement & Contracted Services within five working days of the decision being taken.
  - 2.3 Where supplies, services or works are available from Hertfordshire County Council or other public sector authorities under collaborative procurement arrangements. Provided that the tendering of the arrangement has complied with the Public Contract Regulations 2015, then this exception can be used for values over the EU threshold
  - 2.4 Supplies, services or works for:
    - the repair or enhancement of existing proprietary machinery, plant or equipment;
    - Software maintenance;
    - Supplies, Services or works from government departments, government owned companies, public sector organisations and non-departmental public bodies ( or similar organisations -this is not an exhaustive list);
    - Where there is no other reasonable alternative supplier.

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- 2.5 Cabinet Portfolio Holder (or officer approval if there is a delegated authority in place) approval has been obtained to extend an existing contract (subject to the existing Contract being capable of such an extension). If the original contract was tendered in accordance with EU legislation, then this exception can be used for values over the EU threshold

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## **SECTION THIRTEEN** **CONTRACT MANAGEMENT**

The two embedded documents below are guidance on contract management and supplier relationship management, they should be read in conjunction with this section 13 of the standing orders.



### **1. Managing contracts**

- 1.1 It is the responsibility of Corporate Directors to ensure that any non-corporate contracts that are awarded from within their Directorates budgets have appropriate management arrangements in place for monitoring performance, cost control and compliance with the contract.
- 1.2 Corporate Directors, Assistant Directors or Group Managers shall provide the name of the contract manager for contracts and this shall be documented in the Council's Contract Register.

### **2. Contract Officer Responsibilities**

- 2.1 Contract Officers must
  - Understand the content, processes and deliverables of the contract.
  - Ensure that good communication exists between the contractor and DBC.
  - Ensure that the supplier delivers the service according to the contract.
  - Ensure that the suppliers maintain all insurances and policies required by the contract
  - Monitor supplier performance and standards of delivery of the service.
  - Undertake regular reviews of performance with stakeholders.
  - Monitor the financial stability of the contractor or supplier and that, if required, suitable bonds or PCG are in place.
  - Manage negotiations regarding changes to the contract to deliver further savings and value for money.
  - Ensure risks are identified and contingency plans are in place.
  - Ensure payments are made according to the contract and delivery of service.
  - Prepare an exit strategy for contract end.

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## 3. Contract Register

- 3.1 All contracts that are valued at £5,000 and above shall be recorded in the Council's Contract Register which shall be maintained by the procurement team.

## 4. Risk registers

- 4.1 For all key Council contracts and contracts with a value above the EU threshold, contract managers must:
  - 4.2 Maintain a risk register during the contract period
  - 4.3 Undertake appropriate risk assessments
  - 4.4 For identified risks ensure contingency measures are in place.
  - 4.5 The threshold set out in clause 4.1 may be reduced by the Group Manager Procurement & Contracted Services to any other contract where he considers that risk registers should be in place.

## 5. Contract monitoring and review

- 5.1 All key Council contracts or contracts which have a value above the EU threshold are to be subject to monthly formal review meeting between the contract manager and the contractor. The review may be conducted quarterly if permitted by the Group Manager Procurement & Contracted Services. The meetings held between the Council and the contractor should be documented and recorded as formal meeting minutes and/or action notes.
- 5.2 During the life of any contract, the contract manager must monitor, record and report on any key performance indicators that are specified in contract in addition to the following areas:
  - 5.2.1 Performance
  - 5.2.2 Compliance with specification and contract cost
  - 5.2.3 Any 'value for money' requirements
  - 5.2.4 User satisfaction and risk management.
- 5.3 For all key Council contracts or contracts with a value above the EU threshold, a quarterly report (or more frequent if desired) must be submitted to the Group Manager Procurement & Contracted Services for reporting to the Performance Board.

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## 6. Contract variation and negotiation

- 6.1 Negotiation and managing change over the life of a contract is integral to the contract manager's role however,
- 6.1.1 Negotiation is prohibited on price between award and mobilisation of a contract of OJEU threshold level and above.
- 6.2 The Group Manager Procurement & Contracted Services must be consulted where the proposed changes to an existing contract
- Add to or expand the scope of the contract to include services not originally covered.
  - Introduces criteria that would have allowed another supplier to bid and win the work.
  - It changes the economic balance of the contract in favour of the contractor in a manner which was not provided for in the terms of the initial contract.

## 7. Breach and protection against the consequences of failure by the contractor

Please note that this is not intended to be a comprehensive legal summary and any contractual action needs to be considered carefully with appropriate advice

- 7.1 In general all contracts will contain various clauses and methods for tackling poor performance with the contractor depending on value and strategic importance to the authority, including a formal dispute resolution process
- 7.2 Contract managers must work closely with Suppliers to ensure that the specified services are delivered and any problems are resolved as quickly as possible.
- 7.3 On a day to day basis the contract manager should alert the supplier to any failures of service and monitor changes put in place to ensure that there is a satisfactory resolution and processes put in place to prevent reoccurrence. If the failure continues then a more formal approach may be required as provided for in the contract.
- 7.4 If a contract manager considers that poor performance by the supplier can only be resolved through a formal contractual action they must first consult the Group Manager Procurement & Contracted Services for advice and support.
- 7.5 If the supplier has committed a default as defined in the contract and the default is capable of remediation then the Council may not cancel the contract without first operating a Remediation Plan process.



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- 7.6 The Remediation Plan process requires the supplier to submit a plan on how it is going to tackle the issues and rectify the situation. It must include how it is to be implemented and the timescales for the actions to be undertaken. After this process if the default continues or the supplier declines to submit a remediation plan the authority may terminate the contract.
- 7.7 The authority also can exercise Step in Rights if the situation constitutes an emergency. This action may only be taken after consultation with the Group Manager Procurement & Contracted Services
- 7.8 The contract will also provide for termination of the contract without default however costs will be payable to the supplier that cover the difference between the charges and costs of delivery of the services for the remainder of the term of the contract.

## 8. Contract Payment & Variation

- 8.1 Services and supplies contracts
  - 8.1.1 The appropriate Corporate Director, or an employee duly authorised, should check that the goods have been received and that the prices charged and any additions in respect of VAT are correct whereupon the invoice should be marked as checked and certified for payment by an employee duly authorised in that behalf.
- 8.2 Works contracts up to and including £100,000
  - 8.2.1 Payment may be made on production of invoices certified by an employee authorised by the appropriate Corporate Director. The names of employees so authorised must be sent to the Section 151 Officer together with specimen signatures and level of the authority of the employees so authorised. A contract manager may at his or her discretion require payment to be made only on certificate in accordance with clause 8.3.1 to 8.3.4 inclusive.
- 8.3 Works contracts above £100,000
  - 8.3.1 Payment may only be made on the appropriate contract manager's certificate in accordance with the terms and conditions of the contract.
  - 8.3.2 Each certificate shall state the value of the work executed to date, retention monies, amount paid to date, the amount now certified and any VAT applicable thereto.
  - 8.3.3 Each certificate shall be signed by the contract manager and, where such officer is not an employee of the Council, countersigned by the appropriate Corporate Director or an employee duly authorised in accordance with clause 8.2 above.

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8.3.4 Each duly signed payment certificate shall be despatched to Financial Services in sufficient time to enable payment to be made in accordance with the contract.

## 8.4 Variation orders / architect's instructions

8.5.1 Every variation on a works contract shall be authorised in writing by the contract manager.

8.5.2 The contract manager shall enter an estimate of the increase or reduction in cost arising out of the variation.

8.5.3 Variations on contracts where the original contract sum or approved budgetary expenditure was £10,000 or more must be reported to the appropriate contract decision maker if the variation necessitates an increase of £5,000 or 2% above the approved budget/contract sum whichever is the greater.

## 8.6 Construction Industry Scheme

8.6.1 Under the Income and Corporation Taxes Act 1988 as amended, any contractor working for the Council is deemed to be a sub-contractor and payments to him or her must be made after deduction of tax unless exempt. A schedule of exempt contractors is maintained by the Section 151 Officer who must be notified of any additions.

8.6.2 The contractor should be asked for production of a current exemption certificate or certifying document as appropriate showing that payments may be made without tax deduction.

8.6.3 The invoice or payment certificate must be marked to show:

8.6.3.1 The date of expiry of the exemption.

8.6.3.2 A split showing the value of labour and materials included in the payment.

8.6.4 The duly certified invoice or payment certificate should then be forwarded to Financial Services in sufficient time to enable payment to be made in accordance with the contract, and any tax to be deducted as appropriate.

## 8.7 Final certificates

8.6.1 Subject to the conditions of contract, the Section 151 Officer has the right to review a statement/final account, together with any supporting documentation relating to prime costs, provisional

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sums, additions, deletions and variations, before the final certificate is authorised for payment.

- 8.6.2 Statements/final accounts for all other contracts must be retained by the Group Manager of the procuring service and made available for inspection by the Section 151 Officer for a period of six years plus the current financial year.
- 8.6.3 The final ascertained cost of all building and construction works contracts shall be reported by the Section 151 Officer to the appropriate contract decision maker.

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## SECTION FOURTEEN APPENDICES

# COMMISSIONING & PROCUREMENT STANDING ORDERS

## APPENDIX ONE TENDER REQUISITION FORM (Version 5)

Question	Response	
<b>Tender name</b>		
<b>Corporate Procurement reference</b>		
<b>Client officer</b>	Name	Job Title
<b>Department / Team</b>		
<b>Type of requirement</b> ( <i>delete as appropriate</i> )	Services / Service & Supply/ Supply only / Supply & Works / Works	
<b>If a 'Service' - Has this been identified as a critical function in your level 2 Business Continuity Plan</b>	YES/NO If YES, then you must ensure that a robust business continuity plan is <b>requested</b> in your specification/tender response <b>and scored</b> as part of the tender evaluation. This can then be included in the contract document itself.	
<b>Proposed contract period</b>		
<b>Estimated contract value</b>	(e.g. annual value x years of contract)	
<b>Is this a new requirement?</b> <i>delete as appropriate</i>	YES NO, existing contract expires on:	
<b>Description of the contract requirement</b>		
<b>Tendering Procedure</b> <i>(delete as appropriate)</i>	Open / Restricted / Negotiated / Competitive dialogue / require advice	
Is Profession Indemnity Insurance required? (Threshold of £2 million?)	YES / NO	If a higher/lower value required – state value here.
Is any specialist insurance cover required? .	YES / NO	If YES, state here or include in specification.
Are there any specific health & safety implications arising from this procurement?	YES / NO. If YES, please state how these will be addressed	
If a works contract – have the CDM Regulations 2015 been taken into consideration	YES / NO. If YES state action required.	
Is Personal Data or Special Category Data is to be processed as part of the contract.	YES / NO/ Not Sure. If YES or you're not sure – complete the Data Protection Impact Assessment – Procurement Pack and send to the Information Security Manager.	
Works contracts only – VAT: domestic reverse charge for	<a href="https://www.gov.uk/guidance/vat-domestic-reverse-charge-for-building-and-construction-services">https://www.gov.uk/guidance/vat-domestic-reverse-charge-for-building-and-construction-services</a>	

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building and construction services	Please confirm that DBC will be classified as the end user: YES/No	
<b>Attach your specification documents and send to Procurement with this Tender Requisition Form</b> If tender is complex, involves TUPE or is politically sensitive - please provide additional documents including the Business Case, Options Appraisal, and Project Initiation Document		
<b>Who will manage the contract when awarded:</b>		
<b>Budget &amp; cost centres</b>	Annual budget	Cost Centre(s)
	Checked & approved by Finance	
<b>Assistant Director to confirm budget is available &amp; agree requirement is to be tendered</b>	Signed	Print Name
<b>Client Officer – signature</b>	Signed	Print Name

## Guidance for completing the Tender Requisition Form

Tender Name	This should be the title that the tender will be advertised under
Corporate Procurement Reference	Leave blank – a reference number will be allocated
Client Officer	Give name and job title of the officer leading the project
Type of Requirement	Select only one of the 5 options given
Service in your departments Level 2 Business Continuity Plan	If your <b>level 2 business continuity plan</b> has identified any critical functions that are delivered by an external service provider, you must ensure that a robust business continuity plan is requested in your specification and in the tender response documents. Your Group Manager will be able to advise if it applies for this particular service
Proposed contract Period	State the contract period and any options for extending the contract thereafter
Estimated contract value	This should be the aggregated value over the period of the contract and must include any extension options, e.g. : <ul style="list-style-type: none"> <li>• annual value x number of years (including any extension options)</li> <li>• Initial purchase value + maintenance value x number of years (including any extension options)</li> <li>• For feasibility studies - value of scheme or contracts which may be awarded as a result.</li> </ul>
Is this a new requirement?	Select YES or NO If no then give the expiry date of the present contract
Description of the contract requirement	Give a brief description of the goods, services or works that are required

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Tendering Procedure	Select one of the options, Procurement will be happy to advise
Professional indemnity insurance	This is normally required where a supplier would be giving us professional advice. The Councils standard cover required is £2 million. You should ask the Council's Insurance & Risk Officer for advice on cover for less or more than this.
Specialist Insurance	If you require any specialist insurance then please consult the Council's Insurance & Risk Officer for advice on the cover required.
Are there any specific health & safety implications	If YES, state how you will address these
If a works contract – have the CDM Regulations 2015 been taken into consideration	If YES state action required
Is Personal Data or Special Category Data is to be processed as part of the contract.	Link to Data Protection Impact Assessment – Procurement Pack below: <a href="http://dennis/Docs/_layouts/15/WopiFrame.aspx?sourcedoc=/Docs/Documents/Information%20Management%20and%20Security/GDPR/Privacy%20Impact%20Assessment/Data%20Protection%20Impact%20Assessment%20-%20Procurement%20Pack.docx&amp;action=default">http://dennis/Docs/_layouts/15/WopiFrame.aspx?sourcedoc=/Docs/Documents/Information%20Management%20and%20Security/GDPR/Privacy%20Impact%20Assessment/Data%20Protection%20Impact%20Assessment%20-%20Procurement%20Pack.docx&amp;action=default</a> Once completed you should send to the Information Security Officer who will be able to advise you on any requirements that will need to be included in your tender specification.
Attach your specification	Send to Procurement the specification, any draft evaluation criteria or other relevant documents for the tender process. If tender is complex, involves TUPE or is politically sensitive – you should provide the. Business Case, Options Appraisal, and Project Initiation Document
Who will manage the contract when awarded	State who will manage the contract, this person should also be involved in the tender and evaluation process.
Budget & Cost Centre Approval by Finance	Provide details of your available budget and the relevant cost centres. This will also need to be approved by your accountant in finance, <b>before</b> you send the form to Procurement
Assistant Director Signature	This is sign off from your Assistant Director that they are giving permission to tender the service/requirement
Client Officer Signature	This is your permission to proceed with the tender process.

**Timescales for tenders vary depending on complexity of the process, the approval process, TUPE transfer and lead- in times to contract. Please check with Procurement on the tender timescales.**

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## **APPENDIX TWO** **POLICIES, STRATEGIES & LEGISLATION.**

The following strategies, policies, legislation and documents must be considered during the commissioning process.

### Level One Corporate Business Continuity Plan

<http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2FResilience%2FService%20Level%20Business%20Continuity%20Plans>

### Public Services Social Value Act 2012

<https://www.gov.uk/government/publications/social-value-act-information-and-resources/social-value-act-information-and-resources>

The following policies can be found on DENNIS Policy & procedures:

<http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2Folicies%20%2d%20Procedures%20%2d%20Sustainability%20Tool%20Kit%2Folicies&FolderCTID=0x012000C990015FAD2BBD4D8D6DBC9CAE03911>

- Policy Statement on Social Value
- Children & Young People Safeguarding Policy & Procedures 2018

### Corporate Plan

<http://www.dacorum.gov.uk/home/council-democracy/vision-priorities>

### Equality & Diversity Strategy (2018 – 2021)

<http://dennis/Docs/Documents/Employment%20Handbook/Employment%20Handbook/Section%2002%20-%20Equal%20Opportunities/Equality%20and%20Diversity%20Strategy.pdf>

### Sustainability

<http://www.dacorum.gov.uk/home/environment-street-care/climate-change>

### Bribery Act 2010

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

### TUPE

<https://www.acas.org.uk/tupe>

### Health and Safety at Work

<http://www.hse.gov.uk/guidance/index.htm>

### The Construction (Design and Management) Regulations 2015

<http://www.legislation.gov.uk/ukxi/2015/51/contents/made>

### Financial Regulations

[http://www.dacorum.gov.uk/docs/default-source/council-democracy/finance-regs-review-july-2017-\(post-audit-committee\).pdf?sfvrsn=2](http://www.dacorum.gov.uk/docs/default-source/council-democracy/finance-regs-review-july-2017-(post-audit-committee).pdf?sfvrsn=2)

### Freedom of Information Act (Information Management & Security)

<http://dennis/Docs/Documents/Forms/AllItems.aspx?RootFolder=%2FDocs%2FDocuments%2FInformation%20Management%20and%20Security%2FFreedom%20of%20Information%20Act%202000>

### National Procurement Strategy for Local Government in England 2018

<https://www.local.gov.uk/national-procurement-strategy>



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Guidance and templates for the following can be found on DENNIS in the Document Centre

- Community Impact Assessment
- Sustainability Impact Assessment

This is not an exhaustible list and other documents not listed here may be relevant to the particular service, supply or works you require.

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## APPENDIX THREE EUROPEAN UNION PROCUREMENT THRESHOLDS

The E.U. procurement rules apply where the value of the contract exceeds the relevant thresholds. The thresholds change on a regular basis and so it is important to check the current values with the commissioning & procurement team.

The thresholds, as at 1 January 2020 are:

Category	£ Sterling	Euro
Services	£189,330	€214,000
Supplies	£189,330	€214,000
Services (Light Touch)	£663,540	€750,000
Works	£4,733,252	€5,350,000
Concession Contracts	£4,733,252	€5,350,000

Please note that the thresholds are reviewed every two years and can go up as well as down: the next review is due in January 2022.

The Public Contracts Regulations 2015 (Statutory Instrument 2015 No. 102) were laid in Parliament on 5 February 2015 and came into force on 26 February 2015. The new public procurement rules apply to new procurement exercises commenced on or after 26 February, subject to a small number of exceptions listed in the Regulations.

The **Concession Contracts Regulations 2016** (“CCR 2016”) are in force from 18 April 2016 in relation to all in-scope **concessions** advertised in the OJEU on or after that date, whether by a **contracting** authority or by a utility. The CCR 2016 apply to over threshold public works **concessions** and public services **concessions**.

### **Leaving the European Union (BREXIT)**

In the event that the UK leaves the European Union without a deal, then the Public Contract Regulations (as and when updated) will take precedence over any previous EU legislation.

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## **APPENDIX FOUR** **TRANSPARENCY REQUIREMENTS**

The Local government transparency code 2015 can be found by clicking on the following link.

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

**All local authorities will be required to publish as minimum:**

**1. Details of all invitation to tenders for contracts to provide goods and/or services with a value that exceeds £5,000 on a quarterly basis.**

For each invitation the following details must be published:

- 1.1. reference number
- 1.2. title
- 1.3. description of the goods and/or services sought
- 1.4. start, end and review dates
- 1.5. Local authority department responsible.

**2. Details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreements with a value that exceeds £5,000 on a quarterly basis.**

For each contract the following details must be published:

- 2.1. reference number
- 2.2. title of agreement
- 2.3. local authority department responsible
- 2.4. description of the goods and/or services being provided
- 2.5. supplier name & details
- 2.6. sum to be paid over the length of the contract or the estimated annual Spending or budget for the contract
- 2.7. Start, end & review dates
- 2.8. whether or not the contract was the result of an invitation to quote or a published invitation to tender
- 2.9. Whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number.

**3. Tenders and/or Invitations to Quote;**

Recommendation to place on Contracts Finder, as well as any other local portal every ITT or ITQ for goods and /or services over £10,000.

**4. There is some flexibility on how the above information can be published, it can be:**

- a) Published on a contract register; or
- b) The requirements can be met by publication of documents; e.g. contracts purchase orders, etc. that will include all the details required

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## 5. The following are discretionary recommendations:

### Local authorities are encouraged to:

- 5.1 It is recommended that local authorities place on Contracts Finder, as well as any other local portal, every invitation to tender or invitation to quote for contracts to provide goods and/or services with a value that exceeds £10,000. For each invitation, the details that should be published are the same as those set out in paragraph 1 above.
- 5.2 It is recommended that local authorities should go further than the minimum publication requirements and publish:
- information on a monthly instead of quarterly basis, or ideally, as soon as it is generated and therefore becomes available (commonly known as 'real-time' publication)
  - Every invitation to tender for contracts to provide goods and/or services with a value that exceeds £500 instead of £5,000. The details that should be published are the same as those set out in paragraph 1 above
  - Details of invitations to quote where there has not been a formal invitation to tender. The details that should be published are the same as those set out in paragraph 1 above
  - all contracts in their entirety where the value of the contract exceeds £5,000
  - company registration number at Companies House
  - Details of invitations to tender or invitations to quote that are likely to be issued in the next twelve months. The details that should be published are the same as those set out in paragraph 1 above
  - details of the geographical (e.g. by ward) coverage of contracts entered into by the local authority
  - details of performance against contractual key performance indicators, and
  - information disaggregated by voluntary and community sector category (e.g. whether it is registered with Companies House, Charity or Charitable Incorporated Organisation, Community Interest Company, Industrial and Provident Society, Housing Association, etc.).

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## APPENDIX FIVE

TERMS & CONDITIONS TO BE USED IN TENDER DOCUMENTATION.

Supplies: Please refer to the commissioning & procurement team for latest version of the terms & conditions for a supplies contract

Services: Please refer to the commissioning & procurement team for latest version of the terms & conditions for a services contract

Works: In accordance with the relevant JCT or NEC contract terms & conditions

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## APPENDIX SIX

### GLOSSARY OF TERMS

#### **Agent**

A person or organisation acting on behalf of the Council or on behalf of another organisation.

#### **Award criteria**

The criteria by which the successful Quotation or Tender is to be scored

#### **Award procedure**

The approval procedure for awarding a contract.

#### **Bond**

An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (sometimes 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.

#### **Cabinet**

The Council's Cabinet as defined in the Constitution.

#### **Section 151 Officer**

The Director of Finance & Corporate Services or such other Officer as may be designated the Section 151 Officer by the Council.

#### **Chief Officer**

The Officers defined as such in the Constitution. A Chief Officer is also known as a Director and, for the purposes of these Standing Orders, the Chief Executive is also a Chief Officer.

#### **Codes of Conduct**

The codes regulating the conduct of officers and Members.

#### **Committee**

A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not an Overview & Scrutiny Committee.

#### **Complex Procurement**

Tendering exercises that:

- Have a strategic impact upon the delivery of services,
- Are critical to the Council's reputation,
- Involve outsourcing significant functions where there are a number of disciplines involved, transfers of staffing, large annual payments and complexities that

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arise from the type of work or the condition the service is in when it is outsourced,

- Utilise the competitive dialogue or negotiated procedures.

## **Constitution**

The constitutional document approved by the Council which:

- allocates powers and responsibility within the Council and between it and others
- delegate's authority to act to the Cabinet, Committees, Portfolio Holders and Officers
- regulates the behaviour of individuals and groups through
- Rules of procedure, codes and protocols.

## **Consultant**

Someone employed 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, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

## **Contract**

The legally binding agreement to purchase or deliver services, supplies and works.

## **Contract or Client Officer**

The Officer designated by the Chief Officer to deal with the contract in question.

## **Delegated Authority**

Where authority to make a decision is granted to a specific officer.

## **Contracting Decision**

Any of the following decisions:

- withdrawal of Invitation to Tender
- whom to invite to submit a Quotation or Tender Shortlisting
- award of contract
- Any decision to terminate a contract.

## **Corporate Contract**

A contract let by the Corporate Procurement Team to support the council's aim of achieving value for money as further defined in Appendix Two.

## **EU procedures**

The tendering procedures required by the EU procurement rules where the Total Value of the contract exceeds the EU threshold.

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## **EU threshold**

The contract value at which the EU procurement rules apply.

## **European Economic Area**

The member states of the European Union and Norway, Iceland and Liechtenstein.

## **Financial Regulations**

The Financial Regulations outlining officer responsibilities for financial matters issued by the Section 151 Officer in accordance with the Constitution.

## **Framework agreement**

An agreement between one or more 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.

## **High profile**

A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.

## **High risk**

A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.

## **High value**

A high-value purchase is where the value exceeds the EU threshold values.

## **Invitation to tender**

Invitation to tender documents in the form required by these commissioning and procurement standing orders.

## **Key decision**

Decisions that are defined as key decisions in the Constitution.

## **Line Manager**

The Officer's immediate superior or the officer designated by the Chief Officer to exercise the role reserved to the line manager by these Standing Orders.

## **Most Economically Advantageous Tender (MEAT)**

Award criteria that take account of other criteria other than just price.

## **Monitoring Officer**

The Head of Legal Services or such other Officer as may be designated the Monitoring Officer by the Council.

## **Nominated suppliers and sub-contractors**

Those persons specified in a main contract for the discharge of any part of that contract.



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## **Non-commercial considerations**

- The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- Whether the terms on which contractor's contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
- Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.
- The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').
- The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
- Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.
- Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.
- Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.
- Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.

## **Parent company guarantee**

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 council, the council can require the parent company to do so instead.

## **Portfolio Holder**

A member of the Cabinet to whom political responsibility is allocated in respect of specified functions.

## **PH Decision Sheet**

A report that must be produced for decisions that require a Portfolio Holder decision.

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## **Priority services**

Those services required to be tendered as defined in the EU public procurement directives.

## **Procurement Strategy**

The document setting out the Council's approach to procurement and key priorities for the next few years.

## **Quotation**

A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).

## **Relevant contract**

Contracts to which Procurement Standing Orders apply

## **Selection Criteria**

Criteria that are used to determine the scoring of a SQ based upon the capability & financial assessment.

## **Selling to the Council Guide**

The guidance note that supports the implementation of Procurement Standing Orders.

## **Short listing**

The process of selecting Tenderers who are to be invited to quote or bid or to proceed to final evaluation.

## **Supervising officer**

The Line Manager's immediate superior.

## **Tender**

A Tenderer's proposal submitted in response to an Invitation to Tender.

## **Tenderer**

Any person who asks or is invited to submit a Quotation or Tender.

## **Tender record log**

The log kept by the Corporate Procurement Team to record details of Tenders.

## **Total value**

The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:

- Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period
- Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months

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- Where the contract is for an uncertain duration, by multiplying the monthly payment by 48
- For feasibility studies, the value of the scheme or contracts which may be awarded as a result
- For Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.

## **Whole Life Costs**

The total cost of ownership over the life of an asset or contract period.

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## **APPENDIX SEVEN** **WRITING A BUSINESS CASE**

Please complete this template, including the Commercial Impact Assessment.

### **Business Case**

<b>Contract Name</b>	
<b>Contracting Officer</b>	
<b>Chief Officer</b>	
<b>Start Date of Contract</b>	
<b>Date Business Case Prepared</b>	
<b>Date Contract to be Advertised</b>	

#### **A. The Strategic Fit**

Explain how the scope of the proposed project fits within the existing business and other strategies (where relevant e.g. IT, Evidence Based Decision Making etc.) of the Council;

**Identify the service need** and a compelling case for change, look at the existing (as-is) and forecast the future (to be) operational need of the organisation / Department/ service.

Minimum content needed for this section:

1. Description of the business need expressed as an outcome or output
2. The contribution to the DBC's business strategy
3. Objectives, why it is needed now
4. Key benefits to be realised
5. Key risks
6. Critical success factors and how they will be measured;
7. Main stakeholders.

Questions you should address:

- How well does the desired outcome support DBC's objectives and current priorities?
- If it is a poor fit, can the scope be changed?
- Is the project needed at all?
- Have the stakeholders made a commitment to the project?

#### **2. Commercial Assessment**

Outline the potential commercial arrangement.

Minimum content required for this section:

1. Proposed sourcing option, with rationale for its selection;

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2. Key features of proposed commercial arrangements (e.g. contract terms, contract length, payment mechanisms and performance incentives);
3. The procurement approach/strategy with supporting rationale.
4. Completion of Appendix 1 (Commercial Impact Assessment).

Questions you should address:

- What can the market provide (national, regionally, locally)
- Can funds be raised from grants, PFI etc.?
- Can value for money be obtained from the proposed sources (e.g. partners, suppliers)?
- If not, can the project be made attractive to a wider market?

### 3. Solution Provision

Documents the range of options that you have considered within the broad scope identified in response to DBC's existing and future business needs. You should aim to arrive at the optimum balance of cost, benefit and risk.

Minimum content needed for this section:

1. High level cost/benefit analysis of at least three options for meeting the business need;
2. Analysis of 'soft' benefits that cannot be quantified in financial terms; identify preferred option and any trade-offs.
3. Review resources required

Note that options appraisal should be carried out before selecting a preferred option.

Questions you should address:

- Has a wide range of options been explored?
- Have innovative approaches been considered and/or collaboration with others?
- If not, why not?
- Has the optimum balance of cost, benefit and risk been identified?  
If not, what trade-offs need to be made e.g. foregoing some of the benefits  
In order to keep costs within budget or taking considered risks to achieve more

### 4. The financial case

Assess the affordability and available funding.

Link proposed expenditure to available budget and existing commitments.

Minimum content for this section:

1. Statement of available funding
2. Broad estimates of projected whole-life cost of project, including dept. costs

Questions you should address:

# COMMISSIONING & PROCUREMENT STANDING ORDERS

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- Can the required budget be obtained to deliver the whole project?
- If not, can the scope be reduced or delivered over a longer period?
- Could funding be sought from other sources?

## 5. Project Management

Set out the project organisation and actions, which will be needed to support the achievement of the intended outcomes including procurement activity or the detailed study with existing providers.

Minimum content for this section:

1. high level plan for achieving the desired outcome, with key milestones and major dependencies (e.g. interface with other projects);
2. key roles, with named individual as the project's owner; outline contingency plans e.g. addressing failure to deliver service on time;
3. Major risks identified and outline plan for addressing them; provider's plans for the same, as applicable, skills and experience required.

Questions you should address:

- Can this project be achieved within DBC's current capability and capacity?
- If not, how can the required capability be acquired?
- Can the risks be managed – e.g. scale, complexity, uncertainty?
- Does the scope or timescale need to change?

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## Appendix 1 - Commercial Impact Assessment

Proposed Contract budget:

Proposed contract length:

New contract/ Renewal /Variation:

Contracting officers to enter the relevant answer

	Y (es)	N (o)	FTE's <sup>1</sup>
Q1. Does the budget exist for this procurement?			
Q2. Is there an overall net benefit to the Council?			
Q3. Will any "one-time costs" be recovered in 24-36 months?			
Q4. If a variation is it more than 10% of original value?			
Q5. If Q4=Y was this variation foreseen in the original OJEU <sup>2</sup>			
Q6. Please estimate what resources Finance; HR; legal and Procurement will be require for the duration of the procurement			
a Finance staff be required			
b Legal staff be required			
c Procurement staff be required			
Q7. If Q1=N please say how funds will be secured {E.g. a capital bid will be made.}			

Agreed by

Name	
Signature	
Date	

<sup>1</sup> FTE = Full Time Equivalent number of staff.

<sup>2</sup> OJEU= Official Journal of the European Union.

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## APPENDIX EIGHT MINIMUM INSURANCE THRESHOLDS

### **Supplies, services and works**

Public liability	£5 million
Employers liability	£10 million
Professional indemnity	if required, £2 million
Products cover	if required - seek advice
Bonds etc.	If required - seek advice

### **“If required - seek advice”**

The “if required – seek advice” comment means that the extent of cover should relate to the specific contract and appropriate advice should be taken from:

- Insurance & Risk Manager
- Group Manager – Financial Services
- Assistant Director of Finance & Resources

### **Review**

These thresholds are subject to change and may be updated from time to time.



# COMMISSIONING & PROCUREMENT STANDING ORDERS

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## APPENDIX NINE SERVICE DELIVERY - OPTIONS APPRAISAL

When considering how services should be delivered, there are seven approaches that can be adopted. These are:

### Withdraw from the activity

This is not likely to be possible for those services which the Council has a duty to provide (the majority of Council services fall into this category), although it may be possible to withdraw from aspects of these 'mandatory' services. It is clearly legally possible to withdraw from an activity where the service area is 'discretionary' rather than being required under a legal duty.

### Improved in-house service

Where an improved in-house service is desired, there will need to be a plan setting out improvements and targets so that the service aspirations are achieved.

### Joint commissioning

This involves joining with other local authorities or public bodies to jointly provide or purchase services. It can include delegation of powers to another authority, pooling of budgets, working with other government agencies or arrangements with non-profit organisations.

### Market testing

This is where the Council subjects an in-house service to open competition with the market place.

### Externalisation

This is where the Council subjects an in-house service to competitive tendering and does not allow an in-house bid, thereby securing future delivery by a third party.

### Transfer

This includes circumstances where the Council's client role is passed to another organisation. This may be a not-for-profit organisation, such as a housing or community association or a public/private partnership such as Joint Venture Company. In such cases, the Council sometimes retains a residual interest, e.g. rights to nominate people to use the service, a seat on the board etc. Examples of transfers include: housing stock transfers, leisure centres etc.

### Hybrid options

In reviewing a service or function, the Council must consider whether to break up activities currently treated as a single service or delivered through a single contract and, equally, to consider whether to amalgamate services currently delivered separately. Where a service includes a variety of different types of activity, the option most likely to deliver value for money may well be different for each of the activities.

# COMMISSIONING & PROCUREMENT STANDING ORDERS

## Options Appraisal

Options appraisals are the key to effectively evaluating and determining how services should be delivered. Each option will be appropriate in particular circumstances and some of the options can manifest themselves in different ways. The following tables set out when each option may be more, or less, appropriate. The bullet points are alternative reasons why the option may be more or less suitable; they are not checklists of conditions that must be met.

<b>Withdrawal</b>	
The Council decides that it should withdraw from providing a service or taking part in an activity.	
More suitable	<ul style="list-style-type: none"> <li>▪ Evidence of no need or demand for the service;</li> <li>▪ Other providers can continue without intervention or support from the local authority;</li> <li>▪ Costs of the service or activity considerably outweigh benefits;</li> <li>▪ Service or activity makes no contribution to corporate objectives.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Doubts about the evidence;</li> <li>▪ Uncertainty about whether the alternative providers do meet existing needs or demands;</li> <li>▪ Potential for future service development.</li> </ul>

<b>Improved internal service management</b>	
This is where the service is provided in-house. Management may be through traditional hierarchy, internal trading arrangements or service level agreements. The authority may involve or consult users in decisions about overall objectives and in monitoring service quality.	
More suitable	<ul style="list-style-type: none"> <li>▪ The existing internal service is, or is close to, meeting local targets and national standards;</li> <li>▪ There is no supply market;</li> <li>▪ Costs of externalisation are likely to be high;</li> <li>▪ High impact if service fails.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Poor existing internal services;</li> <li>▪ Need for external investment;</li> <li>▪ Active, competitive, market with established suppliers;</li> <li>▪ Service is easy to specify and monitor.</li> </ul>

<b>Joint commissioning</b>	
This is where two or more public service organisations agree to commission or provide services together. There is no "client" or "contractor" and the organisations are jointly involved in management.	
More suitable	<ul style="list-style-type: none"> <li>▪ Services are provided from a single point;</li> <li>▪ Participating organisations are willing to agree mutual objectives in the interests of the joint service;</li> <li>▪ Financial and other risks can be shared on an equitable basis;</li> <li>▪ Participating organisations do not have the wide range of expertise or sufficient resources to deal with all requests for service, but the volume of requests does not justify investment by each authority;</li> <li>▪ Sharing resources, staff, etc. will produce significant economies and improve quality;</li> <li>▪ All participating organisations require the same, or very similar service;</li> <li>▪ Clear lines of responsibility and accountability can be established.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Organisational identities and imperatives are more important than a seamless service;</li> <li>▪ There are no obvious and willing partners;</li> <li>▪ Legal constraints cannot be overcome.</li> </ul>

# COMMISSIONING & PROCUREMENT STANDING ORDERS

<b>Market testing</b>	
The in-house organisation competes with external service providers to win the work. This is the same as "voluntary competitive tendering".	
More suitable	<ul style="list-style-type: none"> <li>▪ The pressure of competition is necessary to ensure improvements or clarity of definition in in-house performance;</li> <li>▪ There is an active and competitive supply market;</li> <li>▪ The service is easy to specify and monitor;</li> <li>▪ A new service area is being developed where there is the possibility of both in-house provision and the use of external provision;</li> <li>▪ In-house performance can be benchmarked against competition.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Potential suppliers likely to suspect the authority is "going through the motions" and not bid;</li> <li>▪ In-house team are unlikely to be able to make the improvements necessary;</li> <li>▪ The costs of preparing for competition (both client and contractor) outweigh benefits;</li> <li>▪ The authority's service objectives go beyond a simple cost calculation;</li> <li>▪ The in-house team has no real chance of winning;</li> <li>▪ Market testing is suggested as a last ditch effort to avoid externalisation.</li> </ul>

<b>Externalisation - Third party contractor</b>	
Service is provided by external organisations that compete to do the work. Management is conducted through the specification, which sets out the work to be done, and the contract conditions that form the basis of the relationship between client and service provider.	
More suitable	<ul style="list-style-type: none"> <li>▪ Poor existing internal services, or new services where internal supply is thought inappropriate;</li> <li>▪ There will be a clear client / contractor relationship;</li> <li>▪ There is an active, competitive market with established suppliers;</li> <li>▪ Benefits of using the market outweigh the costs;</li> <li>▪ Service is easy to specify and monitor.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Internal service management is demonstrably delivering value for money;</li> <li>▪ Opportunists or monopolists dominate the market;</li> <li>▪ The authority's service objectives go beyond a simple cost calculation;</li> <li>▪ Service is difficult to specify and monitor;</li> <li>▪ Other methods of provision offer better value.</li> </ul>

<b>Externalisation - Partnership</b>	
This is where there is a contract which is supplemented by a formal 'partnership' arrangement. The services are supplied through a contract that places greater emphasis on shared objectives and on the relationship with the supplier. These arrangements are also referred to as 'partnering arrangements'.	
More suitable	<ul style="list-style-type: none"> <li>▪ The service is difficult to specify and monitor;</li> <li>▪ The authority wants to work with an organisation it can 'do business with' rather than one that just 'does the business';</li> <li>▪ It is possible to agree on a programme of future innovation;</li> <li>▪ There is a high level of mutual trust between authority and suppliers;</li> <li>▪ External suppliers can offer savings, innovation, or other benefits that cannot be found in-house.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ Opportunists dominate the market;</li> <li>▪ The service is easy to specify and monitor;</li> <li>▪ In-house supply is more likely to deliver best value;</li> <li>▪ The authority's main objective is to achieve savings.</li> </ul>

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<b>Transfer</b>	
<p>This is where the Council ceases to be the 'client'. That role is taken over by another organisation. This may be a residents' association, community group, charity, co-operative or trust. The authority may still have a residual role, for example, a seat on the board, nominating people for services; grant aid or by subsidising service delivery to the public.</p>	
More suitable	<ul style="list-style-type: none"> <li>▪ The activities of, or services provided by, the organisation fit with the council's overall objectives;</li> <li>▪ The local authority and other organisations agree on the level of accountability required;</li> <li>▪ Community groups already exist or are being formed;</li> <li>▪ Services are provided to the community or the community and individuals make a contribution to the service;</li> <li>▪ Community groups have, or can be trained in, necessary management skills;</li> <li>▪ The authority has a commitment to community development and the involvement of communities in service management;</li> <li>▪ Organisational independence is necessary to ensure users' trust or 'ownership' of the service or activity.</li> <li>▪ Where transfer offers advantages financially or in other ways by means of the legal standing of another organisation, for example, a trust.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ The Council has clear service objectives that it wants to achieve;</li> <li>▪ The service is significant (in financial or operational terms) and needs close management, specification, and monitoring;</li> <li>▪ Personal or highly regulated services;</li> <li>▪ It would be more appropriate (in line with Value for Money and the Council's policies) to make contracts, or partnering arrangements, with local or community businesses;</li> <li>▪ There is little, or no, community interest in service management and delivery;</li> <li>▪ There is an active supply market and no policy gain can be made by transfer</li> </ul>

<b>Hybrid options</b>	
<p>This is where the Council decides that no single option is appropriate. The service includes a variety of different types of activity, or the "Value for Money" tests applied to different parts of the service come up with different answers.</p>	
More suitable	<ul style="list-style-type: none"> <li>▪ A 'service' is made of discrete aspects that have different Value for Money tests applied to them;</li> <li>▪ Areas of excellence exist side-by-side with services that need considerable improvement;</li> <li>▪ Different elements make clearly different contributions to overall service delivery and value for money;</li> <li>▪ There is a wide range of user needs which are best met in different ways;</li> <li>▪ External resources can most effectively be used to support in-house services rather than competing with them;</li> <li>▪ Evidence from the review is equivocal.</li> </ul>
Less suitable	<ul style="list-style-type: none"> <li>▪ The service is easy to specify and monitor;</li> <li>▪ The service is a clearly definable single service;</li> <li>▪ The service is made up of so many separate elements that a hybrid approach could lead to an unmanageable complexity of contracts, agreements, and inter-dependencies;</li> <li>▪ Economy and effectiveness are served best by a single service delivery organisation.</li> </ul>

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<b>Making the decision</b>	
The following questions should be asked.	
What is the gap between:	<ul style="list-style-type: none"> <li>▪ What we want to achieve and what we are achieving?</li> <li>▪ What we want to achieve and users' needs?</li> <li>▪ Our performance and national standards?</li> <li>▪ Our performance and both local and national targets?</li> <li>▪ Our performance and that of others?</li> <li>▪ How we do things and how stakeholders want us to do them?</li> <li>▪ How we do things and how others do them?</li> <li>▪ Our competitiveness and that of others?</li> </ul>
What are the trends?	<ul style="list-style-type: none"> <li>▪ Are we getting better or worse?</li> <li>▪ Where will we be in five years' time if we continue with current service management and delivery methods?</li> <li>▪ Are failures in current performance due to trade-offs in longer-term plans?</li> </ul>
What kind of gap is it?	<ul style="list-style-type: none"> <li>▪ Is it significant or insignificant?</li> <li>▪ What do stakeholders think about the gap?</li> <li>▪ Are we doing the right thing (specification)?</li> <li>▪ Are we doing things right (management and delivery)?</li> <li>▪ Can we measure the gap in terms of efficiency, economy, or effectiveness?</li> </ul>

<b>What other organisations have to offer</b>	
There are a number of issues that need to be taken into account when considering an alternative provider. These include:	
Economies of scale	<ul style="list-style-type: none"> <li>▪ Where an organisation can spread overhead costs through a wider customer base to produce as good (or better) levels of service at a lower unit cost.</li> </ul>
Economies of scope	<ul style="list-style-type: none"> <li>▪ Where an organisation has specialist skills and expertise that the existing supplier cannot afford. This dedicated expertise can be used more effectively to deliver a high standard of service at an economical cost.</li> </ul>
Innovation	<ul style="list-style-type: none"> <li>▪ Where an organisation has a way of doing things that is now a prerequisite for a service and which the existing supplier cannot duplicate within an acceptable time-scale.</li> </ul>
Access to capital	<ul style="list-style-type: none"> <li>▪ Where an organisation can provide the necessary investment in capital assets in order to ensure the delivery of best value services. Within the legal context of local government, restrictions on borrowing may suggest this option.</li> </ul>

## Managing uncertainty

A degree of uncertainty always exists between objectives and the service delivery mechanisms used to deliver them. It is important that the contractor does what they are supposed to do. However, where there is uncertainty because of the nature of the requirement, environment or otherwise, the more likely that in-house service provision or a modified contractual relationship may sustain better value for money.

The following grid is an example of how uncertainty in the service can lead to conclusions about the appropriate approach to service delivery.

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	<b>Certainty</b>	<b>Mixed</b>	<b>Uncertainty</b>
<b>Service</b>	<ul style="list-style-type: none"> <li>▪ Service is easy to specify</li> <li>▪ Service delivery is easy to monitor</li> <li>▪ Continuous or regular monitoring</li> <li>▪ Unambiguous tests of success or failure</li> </ul>	<ul style="list-style-type: none"> <li>▪ Some elements easy to specify</li> <li>▪ Some elements easy to monitor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Service is difficult to specify</li> <li>▪ Service is difficult to monitor</li> <li>▪ Ad-hoc or partial monitoring</li> <li>▪ Subjective tests of success or failure</li> </ul>
<b>Relationship</b>	<ul style="list-style-type: none"> <li>▪ Contract with outside supplier</li> <li>▪ Competition to find the cheapest supplier</li> <li>▪ Focus on the supplier's efficiency</li> <li>▪ Contractors involvement limited to the contracted service</li> </ul>	<ul style="list-style-type: none"> <li>▪ Modified contract relationships:</li> <li>▪ Partnerships or relational contracts:</li> <li>▪ Competition takes account of both cost and quality</li> <li>▪ Open-book approaches to information</li> <li>▪ Authority puts policy objectives alongside service objectives</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hierarchy, rules and instructions</li> <li>▪ Competition is based on individual competence</li> <li>▪ Management through a mixture of control and co-ordination</li> <li>▪ Employer and employee are inter-dependent</li> </ul>

## Selecting the correct option

The process of selecting the correct option for service delivery is key to the successful delivery of the Council's aims and objectives. Whatever solution is considered, the rationale shall be set out in the Tender Requisition Form which is a requirement within Procurement Standing Orders for all procurements that exceed £10,000 in value and be reviewed in the context of the Council's:

### Policy Framework

- Corporate Plan
- Sustainable Community Strategy
- Medium Term Financial Strategy
- Capital Strategy
- Asset Management Plan
- Commissioning & Procurement Strategy

### Governance framework

- The Constitution (including delegated authorities)
- Financial Regulations
- Commissioning & Procurement Standing Orders

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## APPENDIX TEN REQUEST FOR QUOTATION

### **Request for Quotation – Guidance for DBC Staff.**

This document is to be used for obtaining quotations for purchases up to and including £74,999 and when the goods or services are simple to specify and where delivery would normally conclude the contract. If your requirements are more complex you are advised to contact a member of the Procurement Team to discuss your requirements.

Instructions for use:

**For values up to and including £24,999**, a minimum of one quotations should be obtained (with a least one from a local supplier where available)

**For values from £25,000 up to and including £74,999**, the Request for Quotation Form must be made available on the Councils e- tendering portal and advertised on Supply Hertfordshire and Contracts Finder websites.

**Plan your timetable**, including RFQ advert/despatch date, the closing date (allow 2-3 weeks for return of quotes) and the award date.

**The specification**, include a description of what you want done or supplied. You must be clear about what you want and what you expect from the supplier during the life of the contract. If you have a very detail specification, then this can be added as an attachment.

**Timescales**, be clear on the timescales, including delivery dates, period of completion and key milestone dates during the life of the contract.

**Constraints/Minimum Requirements**, should be clearly stated. If a certain qualification is key to the service or there are minimum warranty requirements, then state these.

**Other documents**, such as drawings or reports that need to be made available should be listed on the template.

**Use a Price Schedule table**, unless this is a very simple requirement, adapt the pricing schedule table on the template so you can get a breakdown of prices,

**Decide your Evaluation Criteria**, four criteria have been listed on the template: Price, Delivery, Technical Merit and Quality. If price is the only criteria to be considered, then allocate 100% of the score to this. If other criteria are important then share 100% score across the criteria giving a higher score to the most important.

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**Keep your evaluation notes and scoring**, these must be kept for up to six years after the contract has been performed and details may be requested by Internal or external Audit.

**Before awarding the contract**, approval must be given by your Group Manager (for contracts between £25,000 and 74,999) by signing a Contract Award Certificate (these can be obtained from the Procurement Team)

**Award of contract**, can be made after a Contract Award Certificate has been signed (above £25,000). Contract award can be made by completing a Purchase Order through the Agresso system or putting an Agreement together to be signed by both parties.

**All bidders should be informed of the contract award decision.** Quotations; that have been advertised on the e-tendering portal and contracts finder must complete an award notice to appear on those websites

Please use the ITQ template below for all quotations.



ITQ Template.doc



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## APPENDIX ELEVEN

### CHANGE CONTROL OF AMENDMENTS

	<b>Changes</b>	<b>Officer</b>	<b>Cabinet</b>	<b>Full Council</b>
1	The Commissioning and Procurement Standing Orders are adopted		12 Nov 2019	27 Nov 2019

## Dacorum Borough Council Petition Scheme

Dacorum Borough Council and its partners recognise the value of citizens communicating their needs and concerns about issues in their local area. Petitions have a long tradition and can be useful in suggesting levels of support for various propositions. The Council has, therefore, introduced this scheme to assist in the effective use of petitions in appropriate circumstances, and Council staff will offer advice and assistance to interested persons as to how best to make use of the scheme in order to achieve their aims.

### **A INTRODUCTION**

1. The scheme was approved at the meeting of the Council on 11 July 2018 and is available to view on the Council's website at :- ([www.dacorum.gov.uk](http://www.dacorum.gov.uk).)
2. The purpose of the scheme is to establish a clear process for handling petitions submitted to the Council.

The scheme sets out:

- how people who live, work or study in Dacorum can organise or sign a petition and secure a statutory response
  - how specific responses can be triggered by achieving prescribed levels of signatory support
  - who will do what and to what performance standards
  - how the Council will monitor the effectiveness of the scheme
3. The Council officer responsible for the scheme, and its operation, is the Scheme Administrator, whose name and contact details are Cassy O Neil, Democratic Services Manager, The Forum, Marlowes, Hemel Hempstead, Herts, HP1 1DN. Telephone: 01442 228222; email [member.support@dacorum.gov.uk](mailto:member.support@dacorum.gov.uk) .
  4. The Council will encourage use of the scheme, both within the public sector and voluntary organisations who are delivering local services and also beyond in the wider community.

A summary version of the scheme, 'How to petition your Council' is obtainable in leaflet form, available to the general public.

## **B ABOUT PETITIONS in DACORUM.**

1. The Council, and its partners recognise that petitions are one of the methods by which citizens can communicate to the Council their needs and concerns about issues in their local area. Petitions can be an effective way of expressing levels of support for various propositions and therefore the Council will encourage their use in appropriate circumstances. Council staff will provide advice and assistance to interested persons as to how best to make use of this scheme.

Such advice and assistance may be provided by the different departments of the Council, but enquiries should, in the first instance be directed to Cassy O'Neil, Democratic Services Manager, The Forum, Marlowes, Hemel Hempstead, Herts, HP1 1DN. Telephone: 01442 228222; e-mail [member.support@dacorum.gov.uk](mailto:member.support@dacorum.gov.uk)

2. 'Early resolution' or 'mediation' provision.

The Council places importance on the opportunity offered by petitions, to seek solutions and agreements to issues identified by Petition Organisers. If this can be accomplished before the period set aside for the petition, then the Council may seek agreement with the Petition Organiser to withdraw the relevant petition.

3. Petitions to the Council should be about matters relating to one of its functions. However, the Council will also consider petitions relating to improvements to 'the economic, social or environmental well-being' of Dacorum, or any part of it, to which the Council or any of its partner authorities could contribute.
4. Potential Petition Organisers who need advice as to whether it would be appropriate to address a petition to the Council or to Hertfordshire County Council will be offered guidance. At first instance, the relevant contact point should be the person specified in Paragraph A1.

## **C SUBMISSION of PETITIONS**

1. Petitions may be submitted to the Council in the following ways:-
  - On paper
  - In person
  - Electronically, through any on-line ePetition system as long as names and valid email addresses are provided.
  - Electronically by e-mail (here each sheet of signatures has to be scanned in full as an exact replica of the original copy. Original copies must be retained for one year).
2. In every case, a Petitions Organiser must identify his or her self and provide such details as will assist the Council or other service providers to make contact to discuss the petition.

If the lead signatory wishes to relinquish their role then another signatory can, and must, be elected as lead signatory

3. The Council will formally acknowledge and respond to such Petitions as meet the criteria shown in Paragraph 5 of this Section.
4. The Council will also issue a formal acknowledgement within **10 working days** of receipt of all Petitions.  
In all cases, formal acknowledgements will indicate how the Council proposes to handle the issue, and where appropriate, to outline what it may be possible for the Council to do in response.
5. To be a valid petition, a petition must:-
  - Be initiated by a Petition Organiser whose details have been supplied to the Council
  - Relates to the Council's functions or to wider economic, social or environmental issues applicable to Dacorum
  - Not be vexatious, abusive or otherwise inappropriate. This may include matters which have already been the subject to significant debate where the views of the public have been clearly expressed.
  - Not related to matters excluded from the scheme. These include any matter relating to individual planning or licensing decisions, for which other established processes exist and any other matters for which a statutory or other right of appeal or challenge is available
  - Not concern a matter which is subject to ongoing legal proceedings.
  - Obtain a minimum of 50 valid signatories, from persons who live, work or study in the Council area. Signatures from others (tourists for example) may be considered valid if relevant to the issue of the petition.
  - Not be a duplicate or near-duplicate of a similar petition received or submitted under 12 months ago.

The Scheme Administrator will be responsible for deciding if the Petition is deemed to be valid and his decision shall be final with no right of review.

6. In the period immediately before an election or referendum the Council may need to deal with the petition differently if this is the case we will explain the reasons and discuss the revised timescale which will apply.
7. To ensure the Council understands the level of local support for a petition, it reserves the right to seek to verify each signature appended to a petition and verify that it is from persons who live, work or study in the Council area. This can be significant when establishing whether a petition has obtained the requisite number of signatures to trigger specific processes.

In the case of ePetitions, the Council requires signatories to append their email addresses. Failure to provide this information may lead to the signature not being counted (but these need not always be published on the website).

Unless otherwise agreed following discussions with the Petition Organiser, an ePetition will remain open for signatures for 90 days.

8. As each petition is received, or created online, the Council will log each one, and publish details on its website. For any petition relating specifically to a Council Ward or Wards, the relevant elected member will be formally notified and asked for comments.

## **D. RESPONDING TO PETITIONS**

1. Upon receipt or submission, the Council will assign the petition to a Responding Officer, who will take responsibility for investigating the issue and advise on the action to be taken by the Council.

The name of the Responding Officer will be notified to the Petition Organiser at the time of the acknowledgement.

2. Among the actions the Council will undertake are one or more of the following:-

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an inquiry
- Commissioning relevant research
- Organising a public meeting
- Mounting a wider public consultation
- Meeting with the Petition Organiser or representatives of the signatories
- Providing a written response outlining the Council's views on the subject
- Referring the issue to one of the Council's Overview and Scrutiny Committees, or
- Referring the issue to one of the Council's relevant ordinary Committees
- Consulting statutory partners and local service providers
- Instituting discussions with the voluntary and community sectors
- Make representations to any other external body
- Take no further action on the matter

3. Under normal circumstances, the Council will expect to provide the Petition Organiser with a response detailing which of the actions specified in D2, or any other initiatives it intends to take, within 28 days of receipt.

4. If a Petition has, or acquires 1,000 valid signatures, the issue will be debated at a meeting of the full Council (i.e. a meeting to which all the elected members are summoned to attend).

At the full Council meeting, the Petition Organiser, or someone nominated on his or her behalf, will have the right to speak about the petition, normally for up to 2 minutes. Reasonable advance notice will be provided to ensure that any preparation can be undertaken in time.

The Mayor will decide upon the amount of time to allow for the debate on the petition, and will take account of the degree of public interest in the issue, the level of support given to the petition and the number of elected members wishing to express their views on the subject.

The Council accepts that it will not normally be sufficient for such a meeting merely to 'take note' of the petition, and that there should be a decision taken as to what other steps (including, but not restricted, to the actions specified in Paragraph D2) should also be taken as a response. When considering what steps in D2 may be appropriate it is important to note that it would not be appropriate for a committee or group containing the same members who made the original decision to consider a petition relating to that decision.

The Petitions Organiser will be formally notified in writing of the decision taken at the Council meeting. This will take place within 5 working days.

5. References to 'threshold' numbers of signatures in paragraphs C5 and D4 confer a clear entitlement under the provisions of the scheme. However, the Council accepts that there are situations where issues may be of considerable significance to a small number of stakeholders, and where the absolute number of signatures for a petition may be less appropriate a measure of relevant support.

In these circumstances the Scheme Administrator is authorised to substitute for the thresholds in the paragraphs referred to above, revised numbers that take account of the specifics of the case. When this occurs, the entitlements operate as for the rest of the scheme

6. At the end of the process of considering the petition, the Scheme Administrator will formally write to the Petition Organiser to confirm the Council's response. This communication will normally outline the steps taken by the Council to consider the issue and will refer to the involvement (where applicable) of the Council's elected members.

In the case of an ePetition the response will be distributed by email to the Petition Organiser

A copy of the response to all petitions will be posted to the publicly accessible website and available to view for a period of 6 months from closing the petition.

The letter will also identify the Responding Officer who handled the issue and highlight his or her involvement where appropriate.

This formal response will be despatched within 90 days of receipt or submission of a petition, and a copy will be published on the Council website.

## **F REPORTING**

1. The Council will report progress in addressing issues raised through petitions by updating the web-site regularly, and by ensuring that the status of each petition is accurately shown.
2. In addition, the Council will prepare an annual summary detailing all petitions submitted, the signatures each attracted, and the Council's formal response to each. This report will be presented to the Finance and Resources Overview and Scrutiny Committee each year and published on the Council's website.