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Summary and Explanation

The Council’s Constitution

Oxfordshire County Council’s Constitution is divided into 15 Articles which set out the basic rules governing the Council’s business. More detailed rules, protocols and codes of practice are provided in Parts 8 and 9 of the Constitution.

One reason for bringing all these things together in one Constitution is to provide a handbook for the councillors and others who are directly involved in the business of the Council. It also has the important purpose of providing a guide for local people, businesses and other organisations to understand how the Council’s system works. The Constitution has been formally approved by the Council but is kept under review and updated from time to time by the Council or the Monitoring Officer. ¹

Article 1 of the Constitution commits the Council to exercise all its powers and duties in accordance with the law and this Constitution. Articles 2-15 explain 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 law², while others are a matter for the Council to choose. The Articles are:

- The Constitution (Article 1)
- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairman of the Council (Article 5)
- The Cabinet (Article 6)
- Overview and Scrutiny Committees (Article 7)
- The Oxfordshire Joint Health Overview & Scrutiny Committee (Article 8)
- Regulatory and other Committees (Article 9)
- Health & Wellbeing Board (Article 10)
- The Remuneration Committee (Article 11)
- Agency and Joint Arrangements (Article 12)
- Officers (Article 13)
- Decision Making (Article 14)
- Finance, Contracts and Legal Matters (Article 15)

¹ See Article 1(5) – the Monitoring Officer has delegated authority to approve some changes.
² especially the Local Government Acts 1972 and 2000 and the Local Government and Housing Act 1989 and various regulations made under those Acts
How the Council Operates

Oxfordshire County Council comprises 63 county councillors elected every four years. County councillors are democratically accountable to the residents of their electoral division. The overriding duty of county councillors is to the whole community of Oxfordshire, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit & Governance Committee is responsible for promoting high standards of conduct by councillors and co-opted members, as well as monitoring the operation of the Members’ Code of Conduct and advising councillors and co-opted members on matters relating to the Members’ Code of Conduct.

All county councillors regularly meet together as a single body – known as the ‘full Council’. Meetings of the full Council are open to the public. Here county councillors decide their spending plans (the ‘revenue budget’ and ‘capital programme’) in February each year. The full Council also approves a number of plans and strategies which, together with the revenue budget and capital programme, are known as the ‘Budget and Policy Framework’ (see Article 4).

The full Council is also responsible for appointing the Leader of the Council and various committees: some of these committees are responsible for overseeing and reviewing the decisions of the Cabinet on behalf of the Council; others have statutory non-executive responsibilities to discharge. The Cabinet and the committees are described in more detail below.

How Cabinet Decisions are Made

The Cabinet is the part of the County Council which is responsible for most of the day-to-day main decisions about the Council’s functions and services. The Cabinet comprises the Leader of the Council and up to nine other councillors, each of whom has a special area of responsibility or ‘portfolio’: these are set out in detail at Article 6.

Major decisions are normally made at the Cabinet’s regular monthly meetings; others are made by individual Cabinet Members or a committee of two or more Cabinet Members. Both processes are open for the public to attend except where personal or confidential matters are being discussed.

The Cabinet has to work within the Council’s Budget and Policy Framework. The County Council can approve (or reject) any proposals from the Cabinet for action which is outside the Framework. 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.
Key Decisions

Certain types of decision are classified as ‘key’ decisions. A ‘key’ decision is defined in law\(^3\) as a “decision in relation to any executive function which is likely to be ‘significant’\(^4\) either in terms of the level of expenditure involved or the effects on the communities in two or more county councillors’ electoral divisions”. In general, a key decision may not be taken unless notice of it has been included in the Cabinet’s 4-month ‘Forward Plan’, published each month, which gives information about the forthcoming decisions, when they will be taken and by whom, and how to make any representations about them.

However, the Council has decided that Oxfordshire’s Forward Plan should include all those matters which are expected to come before the Cabinet in the period of the Plan, whether or not they are likely to be classed as ‘significant’.

Non-Cabinet Councillors

County councillors who are not members of the Cabinet have equally important roles to play. As well as their responsibilities for looking after the interests of their constituents, they exercise non-executive functions of the County Council through membership of one or more of the County Council’s standing committees which deal with largely regulatory matters which the Cabinet is not entitled to deal with. These are:

- Audit & Governance – providing assurance on the Council’s risk, control and governance arrangements; promoting high standards of conduct by councillors and co-opted members, as well as monitoring the operation of the Members’ Code of Conduct and advising councillors and co-opted members on matters relating to the Members’ Code of Conduct.
- Pension Fund – managing the pension fund for participating employees of the County Council and other participating organisations and authorities.
- Planning & Regulation – dealing with various licensing matters as well as planning applications.
- Remuneration Committee – dealing with staffing matters including preparation of the annual pay policy statement,

There is more about each of these committees in Articles 9 and 11.

Many of the day-to-day decisions on these matters will, in practice, be taken by sub-committees of councillors or by professional officers acting in accordance with the delegation arrangements described later. Ultimately they will still be accountable to the relevant committee or the full County Council, depending on the decision involved.

\(^3\) The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012

\(^4\) Significant in this context has the meaning set out in Article 14 (Decision Making), paragraph 3(b)
Overview and Scrutiny

These committees monitor the actions of the Cabinet and the other committees and may call them to account. Non-Cabinet members can (subject to certain rules) require decisions of the Cabinet to be ‘called in’ for review by the Performance Scrutiny Committee. The committee may recommend that the Cabinet reconsider the decision, although the final decision will still remain with the Cabinet.

Cabinet Advisory Groups

These task and finish groups aid the Cabinet in the formulation of policy. They bring non-Cabinet members closer to the decision making of the Council and complement the role of the scrutiny committees.

The County Council’s Staff

The County Council employs professional staff (or ‘officers’) to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the County Council acts within the law and uses its resources wisely. Details are in Article 13; there is also a protocol on the relationship between officers and councillors at Part 9.4 of this Constitution.

Officers may be authorised, either by the full Council, the Cabinet, a committee or a sub-committee (other than a scrutiny committee), to take decisions. The scope of these delegated powers is set out in Part 7 of this Constitution: Scheme of Delegation to Officers.

Citizens’ Rights

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

Where members of the public use specific County Council services, for example as a parent of a school pupil, they may have additional rights. These are not covered in this Constitution.
The Constitution

1. Powers of the Council

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

2. The Constitution

This Constitution and all documents in its Parts is the Constitution of Oxfordshire County Council. The electronic copy of the Constitution appearing on the Council’s website is to be regarded as the master copy of the Council’s Constitution.

3. Purpose of the Constitution

The purpose of the Constitution is to:

(a) set out the Council’s governance arrangements which will provide clear leadership to the community in partnership with citizens and other stakeholders;

(b) support the active involvement of citizens in the process of local authority decision-making by setting out their rights in respect of the process of decision-making and access to information;

(c) help councillors represent their constituents more effectively;

(d) enable decisions to be taken efficiently and effectively;

(e) create an effective means of holding decision-makers to public account;

(f) ensure that no one will review or scrutinise a decision in which they were directly involved;

(g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

(h) set out the standards of conduct expected of councillors and those who work for or with the Council.

4. Interpretation of the Constitution

4.1 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. The Council will monitor and evaluate the operation of the Constitution.
4.2 The ruling of the Chairman of Council 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. In interpreting this Constitution, the Chairman of Council shall seek the advice of the Monitoring Officer. Such interpretation will have regard to the purposes of this Constitution set out above.

5. **Review and Revision of the Constitution**

**Duty to Monitor and Review the Constitution**

5.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims, principles and requirements are given full effect and make recommendations on any necessary amendments to it to the Council. In undertaking this task s/he shall:

(a) observe meetings of different parts of the member and officer structure;

(b) undertake an audit trail of a sample of decisions;

(c) record and analyse issues raised with her/him by members, officers, the public and other relevant stakeholders; and

(d) compare practices in the authority with those in other comparable authorities, or national examples of best practice.

**Changes to the Constitution**

5.2 The Monitoring Officer is authorised to make any changes to the Constitution which are required:

(a) to comply with the law; or

(b) to give effect to decisions of the Council or (so far as within their powers) the Cabinet, scrutiny committees and ordinary committees; or

(c) to correct errors and otherwise for accuracy or rectification.

All other changes to the Constitution will only be approved by the full Council after consideration of a recommendation from the Monitoring Officer.

6. **Suspension and Publication of the Constitution**

**Suspension of the Constitution**

(a) **Limit to suspension.** The Articles of the Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law. Any temporary suspension of any part of this Constitution shall only happen
if agreed by the Chairman of the Council after s/he has sought advice from the Monitoring Officer.

(b) **Procedure to suspend.** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved, taking into account the purposes of the Constitution set out above.

(c) **Rules capable of suspension.** All of the Council Rules of Procedure set out in Part 3.1, except Rule 17.6 and Rule 18.2, may be suspended only for the duration of the meeting.

7. **Publication**

(a) The Monitoring Officer will ensure that each member of the authority is made aware of the location of the Constitution on the Council’s website upon delivery to her/him of that individual’s declaration of acceptance of office on the member being elected to the Council. Changes to the Constitution will be notified to all members after they have been agreed.

(b) The Monitoring Officer will ensure that copies of the Constitution are available for inspection at council offices, libraries and other appropriate locations, and is available electronically on the Council’s public website and can be purchased by members of the local press and the public on payment of a reasonable fee.

(c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available free of charge within the County and is updated as necessary.
Members of The Council

1. Composition and Eligibility

(a) Composition. The Council will comprise 63 members, otherwise called councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

(b) Eligibility. Only registered voters of the County or those living or working there will be eligible to hold the office of councillor.¹

2. Election and Terms of Councillors

The regular election of councillors will normally be held on the first Thursday in May every four years beginning in 2001. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3. Roles and Functions of all Councillors

(a) Key roles

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 electoral divisions and of 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

(vii) take part in the Council’s Locality Meeting for their area, the purpose of which is for members within that locality to share information with, and receive updates from, senior managers about the services, priorities and issues affecting that locality.

¹ Sections 79 & 80 of the Local Government Act 1972
(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, unless otherwise legally entitled to do so.

For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in this Constitution. Further details on rights and responsibilities of members are set out in the Protocol on Members’ Rights and the Protocol on Member/Officer Relations in this Constitution.

4. Role and Duties of Member Champions

From time to time, the Cabinet will designate member champions and appoint councillors to, and remove them from, these roles. The profile, role and appointment process are set out in Appendix 1.

5. Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in this Constitution. If in doubt, members should seek advice from the Monitoring Officer.

6. Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out at Part 10.1 of this Constitution.
MEMBER CHAMPION ROLE

GUIDANCE NOTES

1. Introduction

This guidance outlines the responsibilities of a Member Champion including a person profile and an appointment process.

2. Person Profile

Key role: promoting and facilitating proper consideration of the issues in the execution of all aspects of the Council’s roles and engaging with the community to promote support. The following bullet points list the qualities which a champion will either have or develop as he/she exercises this role.

You should be:

- A councillor who is familiar with the topic. You could be a Cabinet Member or a Chairman or Deputy Chairman of a Committee or other member of the Council. You will have support from officers as appropriate. You would be expected to demonstrate your knowledge base and/or your enthusiasm for the topic.

- A good communicator and able to use your skills to promote the benefits of the topic within the Council and externally. You should be able to persuade colleagues both within the Council and in the wider community of the benefits which the topic can offer.

- A consensus builder, able to bring together the various stakeholders within the authority, interest groups and the wider community.

- Able to see the ‘bigger picture’ and help develop a vision.

You should have:

- A commitment and passion for the topic. While a working knowledge of current issues relating to the topic would be an advantage, it is by no means essential. Professional skills within Council will complement your enthusiasm for the subject.

- An understanding of the workings of the Council and an appreciation of the role that each can play in promoting and encouraging the topic.

- A track record of supporting the topic would be an advantage.
3. **Duties**

The key objective for an elected member nominated to act as a Member Champion is to support and encourage the Council in its work to ensure that the promotion and encouragement of the topic plays a central role in the development and implementation of all its policies and strategies. This will involve engagement with stakeholders and other partners both within the Council and externally. The key responsibilities and tasks will depend on you and the time you can devote to the role. You might be thought of as the “conscience” of the Council for this topic. However, your support for the topic would need to be tempered by financial and economic realities and by other pressures which the Council faces. You might serve the Council best by bringing examples of innovative and “out of the box” thinking to the role.

4. **Nomination**

Nomination can be by the following means, or a combination:

- A scrutiny or other committee can nominate a suitable person.
- Members or officers can nominate a suitable person.
- Local interest groups can identify and approach an elected member to take on the role.
- A suitable councillor can volunteer.

5. **Procedure**

Member Champions will be asked to report either:

- formally: to the nominating body in a specified cycle (e.g. annually); or
- informally: through internal journals, briefings.

This must be formally advised at the time of appointment.
Citizens and The Council

1. Citizens’ Rights

Citizens have the following general rights:

(a) Voting and Petitions

Citizens on the electoral roll for the County have the right to vote in council elections and sign a petition to request a referendum for an elected mayor form of Constitution.

(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 key decisions are being considered;

(iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;

(iv) report on the proceedings of formal, public meetings of the Council using social media and other technology, provided that this is not disruptive to the meeting;¹

(v) see reports and background papers, and any records of decisions made by the Council and the Cabinet;

(vi) inspect the Council’s accounts and make their views known to the external auditor;

(vii) information held by the Council, using the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004; and

(viii) any personal information held about them by the Council, in accordance with the relevant data protection legislation;

(ix) submit petitions under the relevant Council, Cabinet and Scrutiny Procedure Rules.

¹ The rights, scope and limitations cited here are those given under the Openness of Local Government Bodies Regulations 2014.
(c) Participation

Citizens have the right to participate in Council matters by addressing in person or submitting a petition to the Council, a Committee, or the Cabinet, by participating in the Council’s public question time and by contributing to investigations by scrutiny committees, including suggesting areas for review by scrutiny committees and issues raised through the Councillor Call for Action.

(d) Complaints

Citizens have the right to complain to:

(i) the Council itself under the appropriate complaints procedure;
(ii) the Ombudsman after using the Council’s own complaints procedure;
(iii) the Monitoring Officer about a breach of the Members’ Code of Conduct.

The rights of citizens to information and to participate are explained in more detail in the Council Procedure Rules and the Access to Information Rules in this Constitution.

2. Citizens’ Responsibilities

Citizens have a responsibility to act appropriately and with due respect; they must not use violent, abusive or threatening behaviour to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. The responsibilities of citizens when attending meetings are set out in the Council, Cabinet and Scrutiny Procedure Rules in this Constitution.
The Full Council

1. Council Meetings

The Council will ordinarily meet 6 times a year. Additional extraordinary meetings may be convened at other times. The convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by the Council.

2. Functions of the Full Council

Only the Council will exercise the following functions:

(a) adopting and changing the Constitution;¹
(b) approving or adopting the Budget and Policy Framework (see below);
(c) making decisions about any matter in the discharge of an executive function which is covered by the budget or the policy framework where the decision maker is minded to make it in a manner which would be contrary to or not wholly in accordance with the budget or policy framework;
(d) adopting the Council’s Code of Conduct for members;
(e) appointing the Leader;
(f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
(g) adopting a Members’ Allowances Scheme;
(h) the functions relating to name and status of areas and individuals specified in Section E of Schedule 1 to the Functions Regulations including changing the name of the area;
(i) confirming the appointment of the Head of Paid Service;
(j) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
(k) the making, amending and revoking of byelaws in accordance with Part XI of the Local Government Act 1972, as amended by the Local Government and Public Involvement in Health Act 2007;
(l) appointment of the Council’s auditors²;
(m) all other matters which, by law, must be reserved to Council.

¹ See Article 1(5) – the Monitoring Officer has delegated authority to approve some changes.
² In accordance with the Local Audit and Accountability Act 2014 (Section 7, Schedule 3).
3. **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.

4. **Policy Framework**

The Council’s Corporate Plan will be approved by Council on a four-yearly basis with annual updates being reported to Cabinet.

The Council will also adopt and maintain other plans from time to time. These may include, for example:

- Library plans
- Community Safety Partnership Strategies
- Local Transport Plan
- Development Plan (including Minerals and Waste)
- Youth Justice Plan

The current plans will be available on the Council’s website.

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<thead>
<tr>
<th>*</th>
<th>Appropriate arrangements for the provision of a library service</th>
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<tbody>
<tr>
<td>*</td>
<td>Community Safety Partnership Strategies</td>
</tr>
<tr>
<td>*</td>
<td>Local Transport Plan</td>
</tr>
<tr>
<td>*</td>
<td>Development Plan documents (includes Minerals &amp; Waste Development Plan documents)</td>
</tr>
<tr>
<td>*</td>
<td>Youth Justice Plan</td>
</tr>
<tr>
<td>*</td>
<td>Medium Term Corporate Plan</td>
</tr>
</tbody>
</table>

5. **Budget and Policy Framework**

6. **Health Functions**

For the avoidance of doubt, Council delegates to the Joint Health Overview & Scrutiny Committee the power to make referrals to the Secretary of State about proposals where the Joint Health Overview & Scrutiny Committee consider proposals for service change, or consultations, have been inadequate.

7. **Responsibility for Functions**

The Council will maintain the tables in Parts 3 and 5-7 of the Constitution setting out the responsibilities of the Council’s functions which are not the responsibility of the Cabinet.
Chairman of the Council

(1) Role and function of the Chairman

The Chairman of Council, and in her/his absence the Vice-Chairman, will have the following roles and functions:

(a) Ceremonial Role

The Chairman is the ceremonial head of the Council having no overt political role whilst undertaking this role. Her/his functions may be summarised thus:

S/he is an ordinary member of the Council who, having been elected Chairman:

(a) takes the chair at Council meetings;
(b) promotes public involvement in the Council’s activities;
(c) attends such civic and ceremonial functions as the Council and s/he determines appropriate and represents the Council;
(d) entertains on behalf of the Council;
(e) at her/his own discretion lends support to non-political causes as Chairman of the Council;
(f) speaks for the Council as a whole on non-political issues, particularly on public occasions;
(g) represents the Council, where appropriate, on negotiations with other bodies where the Council is in essence not divided and it is desirable that the Council be seen to be represented at the highest possible level;
(h) where the Council has expressed its wish, does not speak publicly save in accordance with the declared wish of the Council;
(i) should consult the Monitoring Officer as to whether it is appropriate for her/him to make a statement on, or participate in, any particular matter where there can be doubt;
(j) where advised that a matter is political, should refrain from comment
(k) discretion to adjourn a Council meeting without question to seek advice from the Monitoring Officer, or other, at any point.
(b) **Chairing the Council Meeting**

The Chairman will be elected by the Council annually. No member shall normally occupy the position of Chairman for more than one year at a time.

The Chairman will have the following responsibilities:

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 members who are not on the Cabinet are able to hold the Cabinet to account;
4. to ensure the business of the Council is discharged effectively and conducted in a fair and even-handed manner taking account of the range of views expressed; and
5. to be the conscience of the Council.
The Cabinet

1. **Role**

The Cabinet will carry out all of the local authority’s functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution by decision of the Council (where there is a choice).

2. **Form and Composition**

The Cabinet will consist of the Leader of the Council together with at least 2, but no more than 9 other Councillors appointed to the Cabinet by the Leader.

3. **Leader**

The Leader will be a Councillor elected by the Council to that position. This will normally be at the Annual Meeting following whole council elections. The Leader will hold office for the remaining term of the Council unless:

(a) s/he resigns from the office; or
(b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although this shall not prevent the Council from providing for her/him to resume office at the end of a period of suspension); or
(c) s/he is no longer a councillor; or
(d) s/he is removed from office by resolution of the Council.

In the event that the circumstances in (a) to (d) above occur to create a vacancy in the office of leader of the council, an election to fill the vacancy will be taken at the next ordinary meeting of the Council or at an extraordinary meeting of the Council. In the case of (d) the election to fill the vacancy should occur, where possible, at the same meeting at which the resolution removing the leader is passed. The newly elected leader will remain in office for the remaining term of the Council subject to paragraphs 3(a) to (d).

4. **Other Cabinet Members**

Other Cabinet Members shall be Councillors appointed by the Leader and notified to the Council. One of the other Cabinet Members will be designated as Deputy Leader. Cabinet Members will hold office until:

(a) they resign from office; or
(b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although this is not to prevent the Council from providing for her/him to resume office at the end of a period of suspension); or
(c) they are no longer councillors; or
(d) they are removed from office by the Leader of the Council who must give written notice of any removal to the Proper Officer in writing or by e-mail. The removal will take effect two working days after receipt of notice by the Proper Officer.

5. **Proceedings of the Cabinet**

Proceedings of the Cabinet will comply with the Cabinet Procedure Rules set out at Part 4.2 of the Constitution.

6. **Responsibility for Functions**

The Leader of the Council and other Councillors appointed to the Cabinet will be responsible for the discharge of executive functions, except where arrangements have been made with other local authorities for the exercise by or jointly with them of such functions or any such functions have been wholly or partly delegated to officers of the Council. The Leader of the Council will determine from time to time which functions and activities will be the responsibility of each Cabinet Member. The functions and activities currently allocated to the respective Cabinet Members are set out in the following table.

<table>
<thead>
<tr>
<th>Cabinet Member</th>
<th>Functions</th>
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<tbody>
<tr>
<td>(a) Leader of the Council</td>
<td>Strategy; Corporate and Community Leadership; Strategic Communications; Major External Partnerships; Regional and Strategic Infrastructure and Planning; Economic Growth and Development; District Liaison</td>
</tr>
<tr>
<td>(b) Deputy Leader of the Council</td>
<td>Governance and Internal Management; HR &amp; Industrial Relations; Policy Co-ordination; Customer Services; Fire &amp; Rescue; Trading Standards; Emergency Planning; The Prevent Agenda</td>
</tr>
<tr>
<td>(c) Cabinet Member for Adult Social Care &amp; Public Health</td>
<td>Adult Social Care &amp; Public Health; Champion for Mental Health</td>
</tr>
<tr>
<td>(d) Cabinet Member for Cherwell Partnership</td>
<td>Delivery of Cherwell Partnership agreement</td>
</tr>
<tr>
<td>(e) Cabinet Member for Children &amp; Family Services</td>
<td>Statutory Lead Member for Children’s Services</td>
</tr>
</tbody>
</table>
(f) Cabinet Member for Education & Cultural Services

- Education; Registration Service, Library Service, Coroner’s Service; Music Service; Museum Service; History Service; Cultural Services; Tourism

(g) Cabinet Member for Environment

- Highways; Minerals Strategy; Strategic Waste & Waste Management; Environmental Management; Flooding; Strategic Rail

(h) Cabinet Member for Finance

- Finance; Broadband, Communications, Support to SMEs

(i) Cabinet Member for Local Communities

- Neighbourhood Plans; Local Community Development; Community Cohesion; Equalities; Voluntary and Community Sector Relations; Oxfordshire Together; Community Funding; Member Locality Working

(j) Cabinet Member for Transformation

- Fit for the Future; Property; ICT and Procurement

7. **The Responsibilities of the Leader of the Council and Cabinet Members**

(a) The Leader of the Council and each individual Cabinet Member will:-

(i) be the lead member within the Cabinet for the functions allocated above and will be responsible to the Cabinet and to the Council for the effective discharge of those functions;

(ii) be the first point of contact within the Cabinet for members, officers and other persons or organisations with respect to those functions;

(iii) represent the Cabinet and the Council at meetings or other events with external partners and other organisations connected with the discharge of any of those functions;

(iv) be the public face of the Cabinet and speak for the Cabinet and the Council on those functions.

(b) In the absence of the Cabinet Member, or if s/he is unable to discharge her/his responsibilities for any reason, then the Leader of the Council will either carry out those responsibilities or allocate them to another Cabinet Member. In the absence of the Leader of the Council, the Deputy Leader will act.
8. **Power to Make Cabinet Decisions**

The Leader of the Council and other Councillors appointed to the Cabinet will be responsible collectively for the discharge of executive functions. The Cabinet may arrange for the discharge of any of its functions:

(i) by an individual member of the Cabinet;
(ii) by a committee of the Cabinet;
(iii) by an officer of the Council;
(iv) through joint arrangements with one or more other local authorities;
(v) by another local authority.

9. **Cabinet Committees**

The functions which any such Cabinet committee is for the time being appointed to discharge, its membership, and the rules under which it is to operate, are set out at Part 4.3 of the Constitution.

10. **Delegated Decisions by Individual Cabinet Members**

The functions which individual members of the Cabinet are for the time being authorised to discharge, and the rules under which they are to operate, are set out at Part 4.4 of the Constitution.

11. **Cabinet Advisory Groups**

The functions of Cabinet Advisory Groups, and the rules under which they are to operate, are set out at Part 4.5 of the Constitution.

12. **Transport Advisory Groups**

The functions of the Transport Advisory Panel, and the rules under which they are to operate, are set out at Part 4.6 of the Constitution.
Overview and Scrutiny Committees

1. Terms of Reference

The Council will appoint two scrutiny committees and a joint health overview and scrutiny committee as set out below. The two scrutiny committees will conduct their proceedings in accordance with the Overview & Scrutiny Procedure Rules at Part 6.2 of the Constitution. The Joint Health Overview & Scrutiny Committee is established in accordance with Article 8 of the Constitution.

The Council’s Scrutiny Committees and Joint Health Overview & Committee will each meet at least 4 times a year and will have the membership indicated below. The chairman of the meetings will be the best person for the role, in the opinion of the committees, regardless of party affiliations.

2. General Role:

Within their specific terms, each scrutiny committee may:

(i) establish their own working groups in order to explore issues further;

(ii) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;

(iii) consider any matter affecting the area or its inhabitants;

(iv) make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;

(v) conduct, as appropriate, any research, community or other consultation in the analysis of policy issues and possible options;

(vi) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

(vii) question members of the Cabinet, ordinary committees and officers about their views on issues and proposals affecting Oxfordshire or about their decisions;

(viii) report annually to full Council on their work and make recommendations for future work programmes as appropriate;

3. Performance Scrutiny Committee

The Performance Scrutiny Committee will have 10 members. Its terms of reference will be:
(i) To review and scrutinise the performance of the Council and to provide a focused review of:

(a) Corporate performance and directorate performance and financial reporting

(b) Budget scrutiny

(ii) To monitor the performance of the Council by means of effective key performance indicators, review of key action plans and obligations and through direct access to service managers, Cabinet Members and partners;

(iii) To exercise the statutory right to call-in, for reconsideration, decisions made but not yet implemented by or on behalf of the Cabinet;

(iv) To address any queries or issues of concern that may occur over decisions being taken in relation to adult social care;

(v) To fulfil the Council’s scrutiny responsibilities under the Crime and Justice Act 2006.

4. Education Scrutiny Committee

The Education Scrutiny Committee will have a membership of 11 county councillors plus 4 co-opted members. The county councillor membership will be politically proportional. The terms of reference of the Committee will be:

(i) To focus on the following key areas:

(a) Constructive challenge on performance issues highlighting issues where the Committee can support the improvement dialogue;

(b) Reviewing the Council’s education functions including early years, Special Education Needs and school place planning;

(c) Reviewing the progress of, and any issues emanating from, the School Organisation Stakeholder Group with regard to admissions patterns and arrangements;

(d) Reviewing issues raised by the Schools Forum;

(ii) To assist the Council in its role of championing good educational outcomes for Oxfordshire’s children and young people;
(iii) To provide a challenge to schools and academies and to hold them to account for their academic performance;

(iv) To promote joined up working across organisations in the education sector within Oxfordshire;

(v) To review the bigger picture affecting academic achievement in the county so as to facilitate the achievement of good outcomes;

(vi) To represent the community of Oxfordshire in the development of academic achievement across the county, including responding to formal consultations and participating in inter-agency discussions;

(vii) To contribute to the development of educational policy in the county;

5. **Joint Health Overview & Scrutiny Committee**

The Joint Health Overview & Scrutiny Committee will have a membership of 7 county councillors plus 5 district councillors and 3 co-opted members. The Joint Committee was formed under Section 8 of the Health & Social Care Act 2001 to discharge the County Council’s functions under that Act.
The Oxfordshire Joint Health Overview & Scrutiny Committee

Constitution, Operating Procedures and Protocols

1. The Committee

Oxfordshire County Council has\(^1\) responsibility to “review and scrutinise any matter relating to the planning, provision and operation of the health services in its area” and to make referrals to the Secretary of State about proposals where it considers proposals for service change, or consultations, have been inadequate. It discharges that responsibility to the Oxfordshire Joint Health Overview and Scrutiny Committee (‘the Committee’).

Oxfordshire County Council, Cherwell District Council, Oxford City Council, South Oxfordshire District Council, The Vale of White Horse District Council and West Oxfordshire District Council (“the Constituent Councils”) have under powers in Section 8(2)(a) of the Health and Social Care Act 2001 and associated Regulations\(^2\), formed a joint committee between the Councils to discharge the functions of Oxfordshire County Council given to it under that Act. The Committee will operate within the administrative County of Oxfordshire and will be geographically co-terminus with the boundary of the Oxfordshire Clinical Commissioning Group - in so far as it serves the County of Oxfordshire:-

The Committee will conduct all of its proceedings in accordance with the relevant Regulations and government guidance and shall operate in accordance with this Constitution and the procedures set out herein. In any case of doubt where any matter is not covered by this Constitution then the Constitution of Oxfordshire County Council shall apply, modified as appropriate.

2. Membership

The voting membership of the Committee shall comprise 12 non-executive members of the Constituent Councils. These members will be made up of 7 county councillors and 5 district/city councillors (1 member from each district/city Council). Members should normally serve for a period of 4 years unless they resign or are replaced by the Appointing Council.

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\(^1\) Under the Health and Social Care Act 2012, Regulation 28(1) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and other associated Department of Health guidance,

\(^2\) As amended by section 28 of the Health and Social Care Act 2012 and associated Regulations
Councillors will not be eligible to serve on the Committee if:-

(1) they become a member of an Executive of one of the Appointing Councils or

(2) they cease to be a member of the authority which appointed them

In the event of either of these occurring, that Councillor’s membership of the Committee will be terminated accordingly and a new councillor will be appointed by the Appointing Council.

3. Co-opted Members

In addition to Councillors the Joint Health Overview & Scrutiny Committee shall, in order to assist it in its work, include in its membership up to three non-voting co-opted members. Such members might be appointed because of the personal contribution they would make to the work of the Committee or to represent health related interests as determined by the Committee from time to time.

Co-opted Members shall normally serve for a period of 2 years. Co-opted members may serve for one further consecutive period of 2 years. In the event of a co-opted member resigning before the expiry of her/his period of office a new Co-opted member shall be appointed who shall serve for the remaining period of office. If the member no longer represents the interest(s) for which they were appointed, it shall be open to the Committee to terminate that person’s membership.

4. Terms of Reference

The Committee will discharge the functions conferred by the National Health Service Act 2006 governing the local authority health scrutiny function. The relevant regulations are the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 which came into force on 1 April 2013. The Committee may not discharge any functions other than those conferred by that legislation.

The function of the joint committee is to review or scrutinise within the following framework, health services commissioned or delivered in Oxfordshire, or jointly with any other local authority where such services are commissioned outside Oxfordshire but are delivered to the inhabitants of the County:

1. Review or scrutinise any matter relating to the planning, provision and operation of health services in Oxfordshire. This may include the scrutiny of financial information about the operation of a trust or CCG.
2. Review or scrutinise services commissioned and provided by all relevant NHS bodies and health service providers (including GP practices and other primary care providers such as pharmacists, opticians and dentists and any private, independent or third sector providers delivering services under arrangements made by clinical commissioning groups, NHS England or the local authority) All are known as ‘responsible persons’ in the Act).

3. Appoint, when needed, a discretionary joint health scrutiny committee to carry out specified health scrutiny functions, for example, health scrutiny in relation to health issues that cross the boundaries of the authority.

4. Appoint, when needed, a mandatory joint health scrutiny committee to carry out specified health scrutiny functions where a relevant NHS body or health service provider consults more than one local authority’s health scrutiny function about substantial reconfiguration proposals.

5. The public health arrangements in the area, for example, arrangements for the surveillance of, and response to, outbreaks of communicable disease, or the provision of specialist health promotion services;

6. The arrangements made by relevant NHS bodies for consulting and involving patients and the public under the duty placed on them by Sections 242 and 244 of the NHS Act 2006;

7. Social care services and other health related services jointly commissioned under the Oxfordshire Health and Wellbeing Board’s Strategy.

To receive and take account of any relevant information available to it and in particular relevant information provided by Healthwatch Oxfordshire or contractor when it makes a referral to the Committee.

To review and scrutinise any other issues related to health and the population of Oxfordshire.

5. Delegation of Functions

Subject to the requirements of the relevant Regulations and government guidance, the Committee may join with any other local authority or Health Overview and Scrutiny Committee of such authority to form a joint committee. Such body will be able to discharge such functions of that authority or overview and scrutiny committee as may be determined to further the interests of those authorities or committees or is in the interests of the inhabitants of their areas.

The Committee may delegate such of its functions as it wishes to another local authority, subject to such delegation relating to specific issues and the requirements of the relevant Regulations and government guidance.
6. Establishment of Working Groups

The Committee may appoint such Working Groups of their members as they may determine to undertake and report back to the Committee on specified investigations or reviews as set out in the work programme. Appointments to such Working Groups will be made by the Committee, ensuring political balance as far as possible. Such panels will exist for a fixed period, on the expiry of which they shall cease to exist.

7. Meetings of the Scrutiny Committees

The Committee shall meet at least five times each year. In addition, other meetings may be called as and when required. A Scrutiny Committee meeting may be called by the Chairman of the Committee following consultation with the Deputy Chairman; by one third of the members of the Committee; or by the Proper Officer if s/he considers it necessary or appropriate.

The dates for and notices of all meetings of the Committees shall be published as required by Part VA of the Local Government Act 1972. If there is insufficient business a scheduled meeting may be cancelled by the authorised officer following consultation with the Chairman and Deputy Chairman of the Committee.

Where a Councillor appointed to the Joint Committee is unable for any reason to attend a meeting s/he shall be able to be substituted at that meeting by another non-executive Councillor from the Appointing Council where that Council has rules which permit such substitution. Where there are rules, such substitution shall be in accordance with those rules. However, in the interests of maintaining continuity and the development of experience and knowledge in the functions of the Committee such substitution should be discouraged. Where substitution does take place it shall be the duty of the member of the Committee to ensure that his/her substitute is adequately briefed on the matters to be considered at the meeting. Substitution will not apply to any Working Groups appointed by the Committee.

8. Chairman and Deputy Chairman

The Chairman of the Joint Committee shall be drawn from the County Council members of it and will normally be elected on an annual basis following the annual meeting of Oxfordshire County Council.

The Deputy Chairman of the Joint Committee shall be drawn from the District/City Councillors members of on the Committee and elected on an annual basis immediately following the election of the Chairman.

If the Chairman and Deputy are both absent from a meeting of the Committee then the Councillor members of that body will elect some other councillor to preside at that meeting from amongst their number who are entitled to vote.
Working Groups will appoint one of their members as Chairman for the life of the Panel.

9. **Quorum**

The quorum of a meeting of the Committee will be one quarter of the whole number of voting members, or three voting members, whichever is the greater. During any meeting, if the Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. **Voting**

The Committee should strive wherever possible to reach a consensus on any issue before them without the necessity for a vote. However, the Chairman of the meeting considers that a vote is necessary in order to determine a majority view, it shall be taken by a show or count of hands of the Councillor members present. Co-opted members do not have a vote. In the event of an equality of votes, the Chairman of the Committee shall have a second or casting vote.

11. **Work Planning and Programming**

The development, implementation and management of the work programme of the Joint Overview & Scrutiny Committee is the key to ensuring that health scrutiny is effective, focussed and adds value and that clear objectives are set and regularly evaluated. In undertaking activities within the work programme the Joint Committee may hold enquiries and investigations and appoint advisers and assessors to assist them in this process. They may conduct public surveys, hold public meetings, commission research and do all other things within the law that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so. The costs of these activities will be met in accordance with paragraph 21.

The Committee and its Review Panels may go on site visits. However, in the case of premises where Health Services are provided, no powers are contained in the legislation which would require a NHS body to comply with a request for such a visit. Members shall not therefore, in the conduct of their Scrutiny functions, make arrangements to visit such premises unless they are specifically invited to do so by appropriate NHS officers with the authority to do so. Any request for visits would need to be agreed in advance by the Committee.
12. **Agendas**

The Scrutiny Committee shall consider the following business at its meetings:

Any member of the Committee shall be entitled to give notice to the authorised Officer of the relevant Constituent Council that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for that Committee. The Chairman, in discussion with the Proper Officer shall determine how such requests are considered by the Committee.

The rights of other members of the Constituent Councils to place items on the agenda will be in accordance with their respective Constitutions relating to scrutiny procedure rules.

The Committee shall also respond, as soon as their work programme permits, to requests from Healthwatch Oxfordshire to review or investigate any particular issues relating to the functions of the Committee. Where they do so, the Scrutiny Committee shall in addition to any other reporting, send their findings and any recommendations made to Healthwatch Oxfordshire as soon as is practicable.

Public access to meetings of the Committee will be in accordance with the County Council overview and scrutiny procedure rules (rule 16). In addition the County Council’s Protocol on Public Participation shall apply and sets out the right of members of the public to seek to raise issues for review.

13. **Reports of the Scrutiny Committee**

Once the Committee has completed its deliberations on any matter, a formal report will be prepared on its behalf and, when agreed, the authorised officer will refer it and any recommendations to the relevant body or National Health Service body or health service provider as appropriate and to any other body specified by the Committee. At the same time, the report and its findings shall also be made public.

Where any investigation or review is conducted by a working group, that group will refer its findings to the Committee for consideration. If the Committee considers it appropriate it shall prepare a report for submission to the appropriate health body, health service provider and/or local authority and shall make the report and findings public.

In accordance with Regulation 22(6) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, a report or recommendation produced by the Committee must include:-

- an explanation of the matter reviewed or scrutinised
- a summary of the evidence considered
- a list of the participants involved in a review or scrutiny activity
- an explanation of any recommendations on the matter reviewed or scrutinised.
The Committee may request a response from the NHS body (ies) or health service providers to which the report is sent. This shall be given in writing by that body within 28 days. In accordance with section 22(7) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

14. **Attendance by National Health Service Officers/Health Service Providers at Meetings of the Committee and Working Groups**

The Committee and working groups may require an officer of a local NHS body or health service provider to attend before the Committee to answer questions to enable it to discharge its functions. To this end, at least 15 working days’ notice in writing of the date of attendance should normally be given. The notice will state the nature of the item on which s/he is required to attend and whether any papers are required to be produced for the Committee. The officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the officer is unable to attend on the required date, the authorised Officer shall arrange an alternative date for attendance, or if an alternative date is not possible an authorised employee to answer questions on their behalf.

15. **Attendance by Executive Members and Officers of Constituent Councils**

The Committee and working groups may require an Executive member or an officer of any of the Constituent Councils to attend before the Committee to answer questions to enable it to discharge its functions. At least 15 days’ notice in writing of the date of attendance should normally be given. It shall be the duty of those persons to attend if so required.

Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the authorised Officer shall arrange an alternative date for attendance.

16. **Attendance By Others**

The Scrutiny Committee and working groups may invite people other than those referred to in paragraphs 14 and 15 above to address it, discuss issues of local concern and/or answer questions. The Chairman of the Committee or working groups shall decide the appropriate form of participation as relevant to the issues under consideration and the individual circumstances prevailing.

Under Regulation 21(2) the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Committee must invite interested parties to comment on matters and must take notice of relevant information, in particular that provided by Healthwatch Oxfordshire or contractor. Such relevant information leading to close working and
complementary actions will help to identify and address issues or inform forward plans effectively. When any information relating to the activities of the Committee are received, the receipt of this information must be acknowledged within 20 working days. In addition, any action taken in relation to the referral should be communicated to the requestor.

17. **Provision of Information by NHS Bodies and Constituent Councils**

Relevant NHS bodies and health service providers have a duty under Regulation 26(1) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 to provide the Committee and working groups with such information about the planning, provision and operation of health services as they may reasonably require to enable them to discharge their functions. Under Regulation 26(3)a The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, this does not include:

- confidential information which relates to and identifies a living individual (unless that individual consents)
- information the body or service provider would be entitled to refuse to provide for the purpose of any court proceedings
- disclosure of information prohibited under any legislation

In such cases, the Committee and working groups can require the information to be put in an anonymised form.

The Constituent Councils should equally supply such information as is requested by the Committee and working groups to enable them to effectively discharge their functions.

18. **Duty of NHS Bodies or Health Service Providers to Consult on Substantial Developments or Variations in Provision of Service**

Under Regulation 23(1) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 an NHS body or health service provider must consult the Committee, where it has under consideration any proposal for a substantial development of the Health Service or a substantial variation in the provision of such service. This will not apply where:

- it is a proposal to establish or dissolve or vary the constitution of a CCG or establish or dissolve an NHS Trust unless the proposal involves a substantial development or variation.
Part 2, Article 8

The Oxfordshire Joint Health Overview & Scrutiny Committee

- proposals are part of a trust’s special administrator’s report or draft report (i.e. when a trust has financial difficulties and is being run by an administration put in place by the Secretary of State). These are required to be the subject of a separate 30-day community – wide consultation.

- the relevant NHS body or health service commissioner believes that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. In such cases the NHS body or health service provider must notify the local authority that consultation will not take place and the reason for this.

The NHS body or health service provider must inform the Committee when a consultation is happening, the timeframe of a decision and, following a decision, whether to proceed with the proposal. The Committee may comment on the proposals by a date set by the NHS body or health service provider.

The Committee may report to the Secretary of State in writing where it is not satisfied that:

- consultation on any proposal for a substantial change or development has been adequate in relation to content or time allowed (NB. The referral power in these contexts only relates to the consultation with the local authority, and not consultation with other stakeholders)

- that the proposal would be in the interests of the health service in Oxfordshire

- a decision has been taken without consultation and it is not satisfied that the reasons given for not carrying out consultation are adequate

The Secretary of State may require the NHS body to carry out consultation or further consultation with the Committee as s/he considers appropriate. The NHS body must then have regard to the outcome of that and reconsider any decision it has taken.

There are certain limits on the circumstances in which the Committee may refer a proposal to the Secretary of State. In particular, where it has made a recommendation and the relevant NHS body or health service provider has disagreed with the recommendation, it may not refer a proposal unless:

- it is satisfied that reasonable practicable steps have been taken to try to reach agreement (with steps taken to involve the provider where NHS England or a CCG is acting on the provider’s behalf) but agreement has not been reached; or

- it is satisfied that the relevant NHS body or health service provider has failed to take reasonably practicable steps to try to reach agreement within a reasonable period.
If the Committee has not commented on the proposal or has commented without making a recommendation, it may not refer a proposal unless it has informed the relevant NHS body or health service provider of its decision as to whether to exercise its power of referral and, if applicable, the date by which it proposed to exercise that power; or the date by which it proposes to make a decision as to whether to exercise its power of referral.

In the case of both discretionary committees (ie. where councils have chosen to appoint the joint committee to carry out specified functions) and mandatory joint committees (ie. where councils have been required under Regulation 30 to appoint a joint committee because a local NHS body or health service provider is consulting more than one local authority’s health scrutiny function about substantial reconfiguration proposals):

- where the power to refer has been delegated to the joint committee, only the joint committee may make a referral.

- Where the power to refer has not been delegated to the joint committee, the individual authorities that have appointed the joint committee (or health overview and scrutiny committees or sub-committees to whom the power has been delegated) may make a referral.

In making a referral to the Secretary of State, the Committee should set out:

- An explanation of the proposal to which the report relates.

- An explanation of the reasons for making the referral.

- Evidence in support of these reasons.

- Where the proposal is referred because of inadequate consultation, the reasons why the Committee is not satisfied of its adequacy.

- Where the proposal is referred because there was no consultation for reasons relating to safety or welfare of patients or staff, reasons why the Committee is not satisfied that the reasons given for lack of consultation are adequate.

- Where the Committee believes that proposals are not in the interests of the health service in its area, a summary of the evidence considered, including any evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health service in the area.

- An explanation of any steps that the Committee has taken to try to reach agreement with the relevant NHS body or health service provider.
• Evidence that the health scrutiny body has complied with the requirements which apply where a recommendation has been made.

• Evidence that the health scrutiny body has complied with the requirements which apply where a recommendation has not been made, or where no comments have been provided on the proposal.

If the change/issue is being supported by the Health and Wellbeing Board, the Committee will need to be clear why they oppose this support.

19. Public Access to Meetings of the Committee

Meetings of the Joint Health Overview and Scrutiny Committee are subject to the public access procedures and protocols contained in the County Council’s Constitution.

20. Officers

The County Council will provide staff, specialist advice and support to the Committee and any working groups it establishes. It will also service and support the Committee. The Constituent Councils will each nominate a senior officer to provide support to the Health Scrutiny function.

21. Finance

The County Council will meet the operational and running costs of the Committee and any working groups it establishes. The Constituent District/City Councils will meet the operational and running costs of any health scrutiny review they wishes to have considered by the Committee.

When the Committee has asked witnesses to attend to address them on any matter under consideration, they may pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so. The costs of these activities will be met in accordance with the above.

22. Conduct of Members

The Codes of Conduct of their relevant Appointing Authorities shall apply to all Councillor Members of the Committee. The Oxfordshire County Council Code of Conduct shall apply to the Co-opted members of the Committee.

Each of the Appointing Authorities shall be responsible for indemnifying the Councillors appointed by them to the Committee against any claims against them as a result of lawfully discharging the functions of the Committee.
23. **Annual Report**

The Committee shall produce in April each year a report for the Appointing Authorities on its activities during the preceding year. That report shall also be published to health bodies and the public.

24. **Review of Activities**

The Committee shall periodically review their activities and evaluate the outcomes of their work plan and programme.

25. **Termination of Arrangements**

The joint arrangements may be terminated by agreement between the Constituent Councils.
Regulatory and Other Committees

1. Regulatory and Other Committees

The Council will appoint the committees set out in the table below and those committees will appoint sub-committees, as also set out in the table, to discharge, in accordance with the policy and budget approved by the Council, the functions which under Regulation 2 and Schedule 1 of the relevant Functions Regulations\(^1\) may not be discharged by the Cabinet, together with those functions under Regulation 3 and Schedule 2 of the Functions Regulations which the Council has determined should not be discharged by the Cabinet. (References in the table to functions are to be interpreted as references to those functions so far as exercisable by a county council).

<table>
<thead>
<tr>
<th>Committee</th>
<th>Functions</th>
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<tbody>
<tr>
<td>(a) Audit &amp; Governance Committee</td>
<td>(1) The functions relating to elections specified in Section D of Schedule 1 to the Functions Regulations.</td>
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<td></td>
<td>(2) The functions in relation to the designation of particular officers for certain purposes specified in Paragraphs 39, 40, 43 and 44 in Section I of Schedule 1 to the Functions Regulations.</td>
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<tr>
<td></td>
<td>(3) The functions in relation to the approval of the statement of accounts etc specified in Paragraph 45 in Section I of Schedule 1 to the Functions Regulations including the Annual Governance Statement (including Statement on Internal Control).</td>
</tr>
<tr>
<td></td>
<td>(4) To monitor the risk, control and governance arrangements within the Council, together with the adequacy of those arrangements and those of others managing Council resources:</td>
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<td></td>
<td>- to ensure compliance with relevant legislation, guidance, standards, codes and best practice, whether external or internal;</td>
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<td></td>
<td>- to provide assurance on the effectiveness of those arrangements both generally and for the purposes of the Annual Governance Statement, including arrangements for reporting significant risks; and</td>
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</table>

\(1\) The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended
- to ensure coordination between internal and external audit plans to maximise the use of resources available as part of a total controls assurance framework;

and to draw to the attention of the appropriate scrutiny committee any issues which in the Committee’s view would benefit from a scrutiny review or further investigation.

(5) To consider and comment on the Council’s External Auditor’s annual work plan, the annual audit letter and any reports issued by the Audit Commission or the Council’s External Auditor. Where issues affect the discharge of executive functions, to make recommendations as appropriate to the Cabinet, and where any issues affect the discharge of non-executive functions, to make recommendations to the appropriate Council Committee.

(6) To systematically monitor:

- the performance and effectiveness of Internal Audit Services processes within the Council, including undertaking an annual review using key performance indicators e.g. client satisfaction, percentage of plan completed, percentage of non-chargeable time;

- the strategic Internal Audit Services Plan and annual work plan, advising on any changes required to ensure that statutory duties are fulfilled;

- resourcing for the service, making recommendations to the Cabinet and Council on the budget for the service;

- arrangements for the prevention and detection of fraud and corruption; and

- the system for Treasury Management

and to draw to the attention of the appropriate scrutiny committee any issues which in the Committee’s view would benefit from a scrutiny review or further investigation.
(7) To promote high standards of conduct by councillors and co-opted members.

(8) To grant dispensations to councillors and co-opted members from requirements relating to interests set out in the code of conduct for members.

(9) To receive report from member-officer standards panels appointed to investigate allegations of misconduct under the members’ code of conduct.

(10) To advise the Council as to the adoption or revision of the members’ code of conduct.

(11) To implement the foregoing in accordance with a programme of work agreed by the Committee annually in advance, and to report to the Council on the Committee’s performance in respect of that programme.

(12) The Committee will appoint an Appeals & Tribunals Sub-Committee which will have the following responsibilities and membership:

Responsibilities:

(i) The determination of appeals against decisions made by or on behalf of the authority as specified in Paragraph 2 of Schedule 2 to the Functions Regulations.

(ii) To hear and determine appeals in cases where the relevant procedure rules require this function to be performed by a formally constituted committee or sub-committee.

(iii) To hear and determine appeals in other cases under the relevant procedure rules.

Membership:

The Appeals & Tribunal Sub-Committee will meet as needed and its membership will be:

(i) A member of the Audit & Governance Committee (or substitute)

(ii) Two other members of the Council (one being a Cabinet member in the case of Fire Discipline issues)
(iii) Where the Panel meets to consider home to school transport appeals, the membership of the Panel in that case will consist of one councillor, one officer and one independent person who is not to be a councillor.

(b) Pension Fund Committee

(1) The functions relating to local government pensions including those specified in Paragraph 1 in Section H of Schedule 1 to the Functions Regulations, together with functions under Section 21 of the Oxfordshire Act 1985 (division of county superannuation fund). Except for the determination, as the Employing Authority, of the benefits for individual applications for early retirement.

(2) The functions under the Fireman’s Pension Scheme including those specified in Paragraph 2 in Section H of Schedule 1 to the Functions Regulations.

c) Planning & Regulation Committee

(1) The County Council’s functions as local planning authority relating to:

- development control for minerals and waste planning applications;
- planning applications by the County Council;
- enforcement against breaches of planning control;
(2) Licensing and registration functions relating to:

- food safety;
- animal welfare and movement of animals;
- fire safety and safety of sports grounds;
- employment of children;
- nurses agencies;
- premises for the solemnisation of marriages;
- registration of commons and village greens;
- highways and street works licences and consents;

and otherwise as specified in Section B of Schedule 1 to the Functions Regulations.

(3) The making of agreements for the execution of highways works including those specified in Paragraph 18 of Schedule 2 to the Functions Regulations and agreements with developers under Section 4 of the Oxfordshire Act 1985.

(4) Licensing and consent functions relating to highways and street works including those specified in Sections 9, 11 and 12 of the Oxfordshire Act 1985.

(5) The health and safety at work functions (other than in the council’s capacity as employer) including those specified in Section C of Schedule 1 to the Functions Regulations.

(6) Public rights of way functions relating to:

- creation, diversion and stopping up of footpaths and bridleways;
- protection from interference and damage;
- review and modification of the Definitive Map;
- access agreements;

and otherwise as specified in Part I in Section I of Schedule 1 to the Functions Regulations.
2. **Discharge of Functions**

(a) Where a committee is specified in the table, the function may alternatively be discharged by the Council. Any function of a kind described in the introduction to paragraph 1 (“non-executive functions”) which is not allocated in the table to a committee is to be discharged by the Council.

(b) The Council may arrange with one or more other local authorities for the exercise by or jointly with them of any non-executive functions which may lawfully be the subject of such arrangements.

(c) The Council in the case of any non-executive function, or a committee or sub-committee in the case of a function allocated in the table, may delegate such function to an officer of the Council for the discharge of any of its functions.

3. **Frequency of Meetings**

The Committees will ordinarily meet with the following frequencies:

(a) Audit & Governance Committee 6 times a year
(b) Pension Fund Committee 4 times a year
(c) Planning & Regulation Committee 8 times a year

Additional meetings may be convened at other times. The convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by the Council.
Health & Wellbeing Board

1. Health & Wellbeing Board

The Council must establish a Health & Wellbeing Board. The Board will be the principal structure in Oxfordshire with responsibility for promoting the health and wellbeing of the people of the county.

2. Role and Function

The Health & Wellbeing Board will have the following responsibilities, to be amplified within its own terms of reference:

The Board will:

(1) Prepare a Joint Strategic Needs Assessment to help determine the priorities and objectives for health and social care services across Oxfordshire

(2) Prepare a Joint Health & Wellbeing Strategy for the whole population of Oxfordshire to drive the development and delivery of services to meet agreed priorities;

(3) Oversee the joint commissioning arrangements for health & social care across the county

(4) Maintain oversight of the commissioning intentions of both the Oxfordshire Clinical Commissioning Group and the Council;

(5) Generally exercise the functions of the Council and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act");

(6) Exercise any other functions of the Council which may be delegated to the Board (other than the functions of the authority by virtue of section 244 of the National Health Service Act 2006);

(7) Encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in its area.

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1 The Board is a committee of the Council by virtue of the Health & Social Care Act 2012 and the Local Authority (Public Health, Health & Wellbeing Boards and Health Scrutiny) Regulations 2013

2 In accordance with sections 116 and 116A of the Local Government and Public Involvement of Health Act 2007
(8) Provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.

(9) Establish and monitor Partnership Boards as required to help deliver required service change and improved outcomes.

Additionally the Board may:

(10) Encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health & Wellbeing Board.

(11) Encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together.

(12) Give the Council its opinion on whether the authority is discharging its duty under section 116B of the 2007 Act.

3. Membership

The rules on political proportionality do not apply to the Health & Wellbeing Board nor to any sub-committees set up by it. The membership\textsuperscript{4} of the Health & Wellbeing Board will be:

(1) County councillors as nominated to the Council by the Leader of the Council;

(2) The Leader of Oxfordshire County Council, instead of or in addition to (1), as the Leader may determine;

(3) Director for Adult Services, Oxfordshire County Council and Director of Strategy & Transformation Oxfordshire Clinical Commissioning Group;

(4) The Director for Children’s Services;

(5) The Director for Public Health;

(6) One representative from the Local Healthwatch organisation for the county;

(7) One representative from Oxfordshire clinical commissioning group.

(8) A representative of the Thames Valley NHS Commissioning Group;

\textsuperscript{4} The membership is to be interpreted as the membership specified by Section 194 of the Health and Social Care Act 2012.
(9) Such other persons, or representatives of such other persons, as the local authority thinks appropriate with the proviso that once the Board is established, the Board will be consulted before such appointments are made;

(10) Such additional persons as the Health & Wellbeing Board may determine.

In addition, the Head of Paid Service of Oxfordshire County Council and the senior officer of the Oxfordshire Clinical Commissioning Group may also be in attendance.

4. Chairing of Meetings

Meetings of the Board will be chaired by the Leader of the County Council and the Vice-Chairman will be the Clinical Chair of the Oxfordshire Clinical Commissioning Group as notified to the Monitoring Officer. In the absence of either of these persons, the Board will elect a chairman for the duration of the meeting unless or until the Chairman or Vice-Chairman arrive, in which case the Chairman or Vice-Chairman will preside as appropriate.

5. Voting Rights

All members of the Board or of any sub-committee (or of any joint sub-committee of two or more such boards) shall be treated as voting members of the Board or sub-committee, unless the Council decides otherwise in any particular circumstance. In which case, before making such a direction, the Council must consult the Board. Notwithstanding this, service provider members of the Board will not have voting rights on the grounds of potential conflicts of interest.

Decisions will be taken by the majority of those present and voting and the Chairman of the Board (or sub-committee) will have a second or casting vote.

Notwithstanding the voting rights of members of the Board (or any sub-committee), the meeting will reach its decisions by consensus where possible.

6. Validity of Proceedings

The Health & Wellbeing Board (and any sub-committees) will operate according to this Constitution and also according to the Terms of Reference for the Board itself.

A meeting of the Health & Wellbeing Board shall not be quorate unless at least a quarter of the voting members are present for the duration of the meeting.

As a committee of the Council, the convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by Council.
7. **Cabinet and Scrutiny**

The Cabinet may delegate functions to the Health & Wellbeing Boards and may receive recommendations from the Board.

The Health & Wellbeing Board is subject to scrutiny (but not to call-in except in respect of any functions delegated by the Cabinet) by the Council’s Joint Health Overview & Scrutiny Committee and, as appropriate, the Council’s Performance and Education Scrutiny Committees.

The Board may also ask a Scrutiny Committee or, with the relevant Portfolio Holder’s permission, a Cabinet Advisory Group, to investigate issues relevant to both the Board and the committee or group.

The Board will make an annual report on its work to both the Council, to Cabinet and to the Joint Health Overview & Scrutiny Committee.

8. **Code of Conduct**

All voting members of the Board (and its sub-committees) are subject to the County Council’s Members’ Code of Conduct. This includes the requirement to register Disclosable Pecuniary Interests and to declare them, as appropriate at meetings. Should a member have a Disclosable Pecuniary Interest in a matter before the Board (or sub-committee), then the member (unless a dispensation has been received) should declare it and withdraw from the meeting, taking no part in the discussion or voting upon that item.

9. **Substitution**

Members of the Board may arrange for a named substitute to attend on their behalf. However, any substitutes should reflect the seniority and status of the member making the substitution.

Decisions should not be taken other than by the properly constituted Board; this means that at least a quarter of the original voting membership of the Board should be present when decisions are made.

10. **Transparency and Openness**

The Health & Wellbeing Board will meet in public at least three times a year. The Board may meet informally, and not in public, at other times e.g. for purposes of brainstorming, board learning & development and workshops.

The public’s rights of access to the Board’s public meetings will be subject to the Access to Information Procedure Rules (Part 8.1 of the Council’s Constitution). These make provisions for the giving of public notice of meetings, access to agendas, reports and minutes, the supply of copies of
such papers, the inspection and purchase of background papers and the circumstances in which the public may be excluded from meetings by virtue of the consideration of confidential or exempt information.

In addition, the Freedom of Information Act 2000 gives a general right of access to information held by public authorities and will extend to information generated by, or for, the Board and held by any public authority.

11. Sub-Committees and Informal Working Groups

In establishing Partnership Boards and a Public Involvement Board, the Health & Wellbeing Board will be mindful of its powers to appoint one or more sub-committees to discharge of any of its functions, with certain conditions. The Board may also appoint advisory groups, working groups or informal ‘task and finish groups’ to make recommendations to it on any of its functions.

Annex 1 sets out the provisions relating to the appointment of sub-committees and informal working groups and therefore to the appointment of any Partnership Boards and a Public Improvement Board.
1. **Appointment of Sub-Committees**

The Health & Wellbeing Board may appoint sub-committees. The Board may appoint one or more sub-committees to discharge of any of its functions, with the following conditions:

(1) Where any functions may be discharged by the Board under 3(2) above, by virtue of section 196(2) of the Health & Social Care Act 2012, (i.e. functions that are exercisable by the authority), then unless the Council otherwise directs, the Board may arrange for the discharge of those functions by a sub-committee of the Board, or an officer, or both.

(2) Where the Board discharges functions by virtue of any other enactment that section 196(2) of the 2012 Act, then unless the Council directs otherwise, the Board may arrange for the functions to be discharged by a sub-committee of the Board.

In addition, the Board may appoint one or more sub-committees to advise the Board with respect to any matter relating to the discharge of the Board’s functions.

The membership of any sub-committees will be for the Board to determine. The sub-committees will operate according to this Constitution and also according to their Terms of Reference as established by the Board.

A meeting of the any sub-committee shall not be quorate unless at least a quarter of its voting members are present for the duration of the meeting.

As a sub-committee of the Council, the convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by Council.

2. **Appointment of Advisory and Informal Working Groups**

The Board may appoint one or more advisory groups, working groups or other such informal task and finish groups, to assist it with any of its functions. Such groups may make recommendations to the Board (or to the Cabinet or a Scrutiny Committee as appropriate) but no formal powers or duties of the Board may be delegated to them. The membership of such advisor or working groups will be for the Board to determine.
The Remuneration Committee

1. Remuneration Committee

The Council will establish a Remuneration Committee.

2. Composition

The Remuneration Committee will comprise six county councillors and membership will be in accordance with the rules on political proportionality.

3. Role and function

(1) To make recommendations to Council on the content of an annual pay policy statement for each forthcoming year;

(2) In reviewing and developing recommendations on the annual pay policy statement, to take into account:
   - appropriate independent advice; and
   - the comments of Oxfordshire County Councillors.

(3) To undertake the functions in relation to the appointment etc. of staff specified in Paragraph 37 in Section I of Schedule 1 to the Functions Regulations, including:
   - the appointment of all Strategic Directors, the Director of Adult Services, the Director of Children’s Services and the Director of Finance;
   - making recommendations to Council as to the appointment of the Head of the Paid Service;
   - agreeing changes to the salaries and remuneration of statutory and non-statutory Chief Officers provided such changes are in accordance with the Council’s pay policy statement as required by Section 41 of the Localism Act 2011.

(4) In the case of any office or body which has not been identified by the Cabinet and endorsed by the Council as strategic, the functions relating to appointment of individuals to offices or bodies as specified in Paragraph 19 of Schedule 2 to the Functions Regulations.

(5) In the case of matters for which the Cabinet is not responsible, the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities as specified in Paragraph 20 of Schedule 2 to the Functions Regulations.

(6) In addition to the recommendation of an annual pay policy statement, to make an annual report to Council on the work of the Committee.
4. **Validity of proceedings**

A meeting of the Remuneration Committee shall not be quorate unless at least three members are present for the duration of the meeting.

The convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by Council.

5. **Pension Benefits Sub-Committee**

(1) The Remuneration Committee will appoint a Pension Benefits Sub-Committee which will have the following functions:

   (i) This Sub-Committee will determine early retirement cases only where the Council has discretion e.g. ill health retirement.

   (ii) The functions relating to Local Government Pensions for which the Pension Fund Committee is not responsible.

(2) The Pension Benefit Sub-Committee will meet as needed and its membership will be:

   (i) A member of the Remuneration Committee (or substitute)

   (ii) Two other members of the Council.

6. **Early Retirement**

(1) The Remuneration Committee delegates consideration and approval of all other early retirement cases (save those delegated to Pension Benefits Sub-Committee) to Council Directors with concurrence from the Director of Human Resources.

(2) The Remuneration Committee wishes to receive a report each quarter on all redundancies and early retirements including associated costs.
Agency, Partnership and Joint Arrangements

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.

2. **Agency Arrangements**

   (a) The Council may make arrangements with any other local authority whereby that other authority will exercise non-executive functions of the Council.
   (b) The Cabinet may make arrangements with any other local authority (or the executive of that authority if it is operating executive arrangements) whereby that other authority (or executive) will exercise executive functions of the Council.
   (c) No arrangements made under (a) or (b) above prevent the Council or, as the case may be, the Cabinet from exercising the functions which are the subject of the arrangements.
   (d) The arrangements currently existing are listed in Schedule 1.

3. **Partnerships**

   (a) The Council participates in a range of partnerships. In some cases, such as the Health and Wellbeing Board and the Safeguarding Children Board, these are a statutory requirement. Others are voluntary partnerships and all help to co-ordinate and join up organisational effort across the public sector and with other local bodies.
   (b) The Oxfordshire Partnership is the over-arching strategic partnership for the county. It brings together organisations from the public, private, voluntary and community sectors to focus their efforts on the issues of importance to those who live, work and visit Oxfordshire; and to discuss how we can work together to address the challenges we face. Its aims are set out in *Oxfordshire 2030*.
   (c) The Oxfordshire Partnership meets on a bi-annual basis.
(d) The Council participates in various Oxfordshire-wide partnerships which are critical in progressing key county-wide priorities across the themes of economic growth, health and wellbeing, thriving communities and support to the most vulnerable. Each of these Partnerships (included in Schedule 3 to this Article) are required to report annually to Full Council. This report requires Partnerships to tell the Council:
- Their current focus
- Key achievements in the last year
- Aims for the year ahead
- Key challenges
- Outline of governance arrangements

(e) The Partnership Report also includes information from a range of partnerships which do not have a formal requirement to report back to the Council, but on which the Council is represented. This includes in particular the Local Enterprise Partnership.

4. Joint Arrangements

(a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with those 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 those other local authorities.

(c) Except as set out below, only Cabinet Members may be appointed to a joint committee which is responsible for discharging executive functions, and those members need not reflect the political composition of the local authority as a whole.¹

(d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:

(i) Where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population, the Cabinet may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

(ii) Where the joint committee is between the Council and a single district council and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet of the County Council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

¹ Section 20 of the Local Government Act 2000
In both of these cases the political balance requirements do not apply to the appointments.

(e) The joint committees currently existing are listed in Schedule 2.

5. **Agreement between Cherwell District Council and Oxfordshire County Council**

This arrangement is governed by a formal “S113 Agreement” agreed by both Councils and has set up a Partnership Working Group, Joint Committees and a process for managing potential conflicts of interest between staff of both authorities who may work on joint projects or services. The Agreement envisages a shared senior management team and the achievement of proposals for joint working.

6. **Access to Information**

(a) 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 which applies to the Executive.

(b) 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.

7. **Contracting Out**

The Cabinet 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.
### Schedule 1 – Agency Arrangements

<table>
<thead>
<tr>
<th>Partner Authority</th>
<th>Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Cherwell District Council</td>
<td>(i) Verge, tree and hedge maintenance.</td>
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<tr>
<td></td>
<td>(ii) Adoption of private streets.</td>
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<tr>
<td></td>
<td>(iii) Administration of Advance Payments Code.</td>
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<td></td>
<td>(iv) Recovery and disposal of abandoned vehicles.</td>
</tr>
<tr>
<td></td>
<td>(v) Promotion and implementation of individual highway and traffic measures as specifically agreed from time to time.</td>
</tr>
<tr>
<td></td>
<td>(vi) Highway verge maintenance (grass cutting)</td>
</tr>
<tr>
<td>(b) Oxford City Council</td>
<td>(i) Promotion and implementation of minor highway and traffic measures funded from developer contributions.</td>
</tr>
<tr>
<td></td>
<td>(ii) Recovery and disposal of abandoned vehicles.</td>
</tr>
<tr>
<td></td>
<td>(iii) Highway verge maintenance (grass cutting)</td>
</tr>
<tr>
<td>(c) South Oxfordshire District Council</td>
<td>(i) Recovery and disposal of abandoned vehicles.</td>
</tr>
<tr>
<td></td>
<td>(ii) Administration of specified on-street pay &amp; display parking places, Wallingford.</td>
</tr>
<tr>
<td></td>
<td>(iii) Promotion and implementation of individual highway and traffic measures as specifically agreed from time to time.</td>
</tr>
<tr>
<td>(d) Vale of White Horse District Council</td>
<td>(i) Verge, tree and hedge maintenance.</td>
</tr>
<tr>
<td></td>
<td>(ii) Adoption of private streets.</td>
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<tr>
<td></td>
<td>(iii) Administration of Advance Payments Code.</td>
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</tr>
<tr>
<td></td>
<td>(vi) Highway verge maintenance (grass cutting)</td>
</tr>
<tr>
<td>(e) West Oxfordshire District Council</td>
<td>(i) Verge, tree and hedge maintenance.</td>
</tr>
<tr>
<td></td>
<td>(ii) Adoption of private streets.</td>
</tr>
<tr>
<td></td>
<td>(iii) Administration of Advance Payments Code.</td>
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</tr>
<tr>
<td></td>
<td>(vi) Highway verge maintenance (grass cutting)</td>
</tr>
</tbody>
</table>
(f) All Town & Parish Councils (subject to specific agreement in each case)

(i) Removal of unauthorised signs from the highway.

(ii) Promotion and implementation of individual highway and traffic measures as specifically agreed from time to time.

(iii) Highway verge maintenance (grass cutting)

(g) Abingdon Town Council
(h) Henley Town Council
(i) Thame Town Council

Administration of specified town centre on-street parking schemes.
Schedule 2 – Joint Committees

Part 1 – Relating to Non-Executive Functions

<table>
<thead>
<tr>
<th>Partner Authority(ies)</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>None</td>
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</tbody>
</table>

Part 2 – Relating to Executive Functions

<table>
<thead>
<tr>
<th>Partner Authority(ies)</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>The authorities within the Oxfordshire Local Enterprise Partnership (LEP) i.e. Cherwell District Council, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and West Oxfordshire District Council</td>
<td>Oxfordshire Growth Board</td>
</tr>
<tr>
<td>Berkshire, Buckinghamshire, East Sussex, Hampshire, Isle of Wight, Kent, Surrey and West Sussex Fire Authorities</td>
<td>National Parking Adjudication Service Joint Committee</td>
</tr>
<tr>
<td>Other traffic authorities outside London operating Special and Permitted Parking Areas(^2)</td>
<td></td>
</tr>
</tbody>
</table>

\(^2\)As defined in Schedule 3 to the Road Traffic Act 1991

Part 3 – Relating to Scrutiny Functions

<table>
<thead>
<tr>
<th>Partner Authority(ies)</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oxfordshire County Council and the 5 district councils in the County(^3)</td>
<td>Oxfordshire Joint Health Overview &amp; Scrutiny Committee</td>
</tr>
</tbody>
</table>

\(^3\)Statutory Committee set up under Section 8(2)(a) of the Health & Social Care Act 2001
Schedule 3 – Partnerships

In addition to its involvement in agency and joint arrangements, the Council participates in the Oxfordshire Partnership, the over-arching strategic partnership for the County.

In practice, the Council engages in various partnerships including:

- Oxfordshire Environment and Waste Partnership
- Oxfordshire Safer Communities Partnership
- Oxfordshire Stronger Communities Alliance
- Oxfordshire Safeguarding Children Board
- Oxfordshire Safeguarding Adults Board
Schedule 4

Cherwell District Council and Oxfordshire County Council have entered into a Section 113 agreement and the following bodies and terms of reference have been established:

- Partnership Working Group (Annex 1)
- Joint Shared Service and Personnel Committee (Annex 2)
- Joint Appeals Committee (Annex 3)
PARTNERSHIP WORKING GROUP

CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

This Partnership Working Group is joint working group of Cherwell District Council and Oxfordshire County Council. It is established as an informal working group with the express intention of exploring the creation of a shared management team and possible areas of shared services, and for preparing recommendations to both authorities for achieving effective joint arrangements.

TERMS OF REFERENCE

MEMBERSHIP

- 5 elected members from each council as appointed by the Leaders
- 5 substitute members to be appointed for each council

OBJECTIVES

Overview:
To consider joint arrangement proposals and performance and to make recommendations to the Joint Shared Service and Personnel Committee or separate councils for decision as required.

In detail:
To oversee the development, on a service by service basis, of a detailed business case for the creation of joint arrangements. This is likely to include recommendations as to:

- Delivering an effective and lean joint management structure
- Identifying areas to develop joint working in line with the principles agreed by both councils - including opportunities for development of aligned policy and procedures where appropriate
- Scoping the financial baselines and the capacity to improve (or maintain) the financial position of both councils
- Identifying other key benefits and associated success criteria for shared arrangements
- Establishing shared support services, serving the needs of both councils to the standards agreed by each
- Maximising the opportunities for joint initiatives and joint working with partners in ways that better meet the needs of residents
- Determining and recommending a mechanism/formula for the allocation of associated costs and efficiencies across both organisations, including a ratio for the apportionment of costs, one-off costs including redundancy and associated pension costs, arising from the creation of the Shared Senior Management Team and Shared Services
- Detailing the risks to both Councils and recommending mitigating actions to both authorities
• Establishing protocols to deal with Communications and those specified in the Inter Authority Section 113 Agreement

The Partnership Working Group will produce recommendations to the Joint Shared Service and Personnel Committee, Executive, Cabinet and Full Councils of both authorities, as appropriate.

REMEDIES UNDER THE SECTION 113 AGREEMENT

The Working Group shall have the role, as agreed under the Section 113 Agreement (Clauses 7.3, 7.5 and 10.1) in terms of seeking to achieve a remedy where, under one council wishes to withdraw from the Agreement and the informal Dispute under Clause 10 of the Agreement has not been successful.

QUORUM

The Working Group’s meetings will be considered quorate if three elected members from each council are present.

NUMBER AND FREQUENCY OF MEETINGS

The Working Group will meet on at least four occasions a year.

The Working Group will convene at a time convenient to a majority of its Members.

The meetings will alternate between Banbury and Oxford. Officers will facilitate a standard agenda for the meetings and maintain a record of decisions and actions, together with a risks and issues log.

TIMETABLE

At its first meeting, the Working Group will agree a workplan (officers to provide a draft workplan in advance) and timescale. Notwithstanding this, it is expected that:

• Draft recommendations will be sent to the controlling and opposition groups of both authorities
• Final recommendations will be sent to the Joint Shared Service and Personnel Committee or each authority’s Executive and Council as required

In any event, the Group will report to both Councils on its findings and recommendations in relation to the establishment of a Shared Management Team no later than six months after the signing date of the relevant Section 113 agreement.

STATUS OF THE WORKING GROUP

The Working Group is an informal working group of both authorities. As such, its meetings will not be subject to the constitutional provisions relating to access to proportionality or the information procedure rules of either authority. Its final recommendations, and the rationale for them, will of course be made public.
JOINT SHARED SERVICE AND PERSONNEL COMMITTEE

CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

Under Local Government Act 1972 s.101 (5) two or more local authorities may appoint a joint committee to discharge any of their functions that are not reserved for the sole decision of a single authority in legislation. The Joint Committee can authorise an officer employed by either authority to act on its behalf. Whilst it is envisaged that the majority of daily business and processes such as recruitment, personnel and appeals will be carried out under each employing authority’s decision-making processes, there are a few functions which are best delivered through joint arrangements.

Area: the Joint Committee shall exercise its authority for the areas comprising of Cherwell District Council and Oxfordshire County Council.

Membership: the Committee shall be comprised of 10 Councillors, 5 from Cherwell District Council and 5 from Oxfordshire County Council with 5 named substitutes from each authority. All Councillors including substitutes will receive appropriate training before they can participate as a Committee member.

Quorum: will be 3 Members from each authority (i.e. a total of 6).

Chairman: the Chairman and Vice Chairman will be elected by the committee and will be representative of each authority.

Decision making: decision will be by a majority of Members of the committee present and voting.

Terms of Reference

• To have responsibility for and to take any decision on staffing matters, (other than those delegated to officers) and any other non-executive decisions function specifically delegated to the committee by the respective councils, for any shared service established for the councils
• To have responsibility for and to take any executive decisions (other than those delegated to officers), specifically delegated to it by the respective Executive arrangements of the councils with regard to any shared service established for the councils
• To ensure that any shared service meets the requirements of the councils in furthering the objectives of their respective corporate plans.
• To take all executive decisions with regard to any established and future shared service to include regular budget and performance data for any shared service.
Shared Management

In the case of shared Chief Officer posts:

- To act as the interviewing panel for the Head of Paid Service (Chief Executive), making recommendations to the councils for formal appointment.
- To act as the interviewing panel and appoint shared chief officers (Officers who report to the Chief Executive) working across the councils (NB. Anyone involved in the decision for a particular post must be present throughout the entire interview process).

Shared Posts

Where a business case has been agreed by the councils and a decision made to share a service between them to:

- Agree posts to be declared ‘at risk’, and to approve dismissal, including compulsory or voluntary redundancy and the exercise of discretionary awards to any post where costs are shared or are going to be shared. This excludes the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (if shared) on the grounds of misconduct which must be the subject of a resolution of the relevant full Council following compliance with the procedure set out in the Officer Employment Procedure Rules.

Shared Statutory Officer Discipline

The role and responsibilities of the Joint Personnel Committee with regard to shared Statutory Officer disciplinary action is to:

- Ensure that the Statutory Officer clearly understands the standards of conduct expected of him/her.
- Carry out, or make arrangements for, an investigation when any breach of discipline is alleged.
- Ensure that the Statutory Officer subject to investigation is kept up-to-date with progress.
- Decide, in the most serious cases whether or not to suspend or (where the Statutory Officer has already been suspended by the Head of Paid Service or Monitoring Officer under their delegated powers) to continue the suspension of the Statutory Officer, in accordance with the Statutory Officer disciplinary policy.
- Report to Full Council (of the employing authority) in respect of a recommendation to dismiss, having convened a Panel comprising Independent Persons in accordance with the Officer Employment Procedure Rules.
JOINT APPEALS COMMITTEE

CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

**Area:** The Joint Committee shall exercise its authority for the areas comprising of Cherwell District Council and Oxfordshire County Council.

**Membership:** The Committee shall be comprised of 6 councillors, 3 from Cherwell District Council and 3 from Oxfordshire County Council with 3 named substitutes from each authority. They may not be members of the Joint Personnel Committee. All councillors including substitutes will receive appropriate training before they can participate as a Committee member.

**Quorum:** will be 2 Members from each authority (i.e. a total of 4).

**Chairman:** The Chairman and Vice Chairman will be elected by the Committee and will be representative of each authority.

**Decision making:** decision will be by a majority of Members of the Committee present and voting.

**Terms of Reference**

- To hear and determine any appeals, or grievance appeals, made against the Head of Paid Service/Chief Executive by any shared Chief Officer or Deputy Chief Officer either Council.

- To hear and determine any appeals brought by the Chief Executive and (if shared) the Monitoring Officer and section 151 Officer against any disciplinary sanctions imposed short of dismissal.

- To hear and determine any appeals against any disciplinary sanctions imposed on a Chief Officer who is shared between Cherwell District Council and Oxfordshire County Council excluding the statutory officers referred to above.
Offices

1. Management Structure

(a) The full Council may engage staff (referred to as officers) as it considers necessary to carry out its functions.

(b) The Council will engage persons for the following chief officer posts:

<table>
<thead>
<tr>
<th>Post</th>
<th>Principal Areas of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Head of the Council’s paid service; overall corporate management and promotion of the Council’s strategic objectives; also areas of service managed by the Assistant Chief Executive.</td>
</tr>
<tr>
<td>Strategic Director for Resources and Director for Law &amp; Governance</td>
<td>Areas of service managed by: • Director of Finance • Director of Human Resources Legal services and advice; support for councillors and the democratic process; governance; Monitoring Officer, information governance and elections.</td>
</tr>
<tr>
<td>Assistant Chief Executive</td>
<td>Strategic partnerships and the sustainable community strategy; media and communications; performance management; information and communications technology; Oxfordshire Customer Services</td>
</tr>
<tr>
<td>Director of Finance</td>
<td>Corporate financial management and administration; internal audit; procurement; Chief Finance Officer</td>
</tr>
<tr>
<td>Director of Human Resources</td>
<td>Human resources and organisational development.</td>
</tr>
<tr>
<td>Director for Public Health</td>
<td>Public health</td>
</tr>
<tr>
<td>Deputy Director for Public Health</td>
<td>Promoting the health of the local population; commissioning public health services; health improvement; planning for public health incidents; monitoring uptake of screening/immunisations.</td>
</tr>
</tbody>
</table>

1 The Director of Public Health is also the designated Chief Medical Adviser for the provision of emergency medical advice to the Council for the purposes of the Mental Health Act 1983
## Post

<table>
<thead>
<tr>
<th>Post</th>
<th>Principal Areas of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director for Adult Services</td>
<td>Adult social services; residential and nursing care; supported living; intermediate care; home support; assessment and re-ablement; occupational therapy; sensory impairment; mental health; carers services; translation and interpretation; adult learning; community safety; consumer protection and animal welfare; gypsy and traveller service; emergency planning.</td>
</tr>
<tr>
<td>Director for Children's Services</td>
<td>Children’s services; early years and childcare; family support; fostering and adoption; looked-after children; residential and leaving care; asylum seekers; child protection; school performance; resourcing and support for schools; school governor support; school admissions; school transport (policy); special educational needs; behaviour support; teenage pregnancy; drugs and alcohol; youth service; youth justice</td>
</tr>
<tr>
<td>Strategic Director for Communities</td>
<td>Areas of service managed by:</td>
</tr>
<tr>
<td></td>
<td>- Director for Community Safety &amp; Chief Fire Officer</td>
</tr>
<tr>
<td></td>
<td>- Director for Infrastructure Operations</td>
</tr>
<tr>
<td></td>
<td>- Director for Planning and Place</td>
</tr>
<tr>
<td></td>
<td>- Director for Capital Investment and Delivery</td>
</tr>
<tr>
<td>Director for Community Safety and Chief Fire &amp; Rescue Officer</td>
<td>Fire and rescue services; and trading standards.</td>
</tr>
<tr>
<td>Director for Infrastructure Operations</td>
<td>Highways; network management; road safety and travel planning; transport development control; mainstream school and special needs transport; bus services; countryside and rights of way services; archaeological service; economic development; environmental and climate change policies; cultural services; libraries; heritage services and museums; music service; coroner’s and registration services.</td>
</tr>
</tbody>
</table>
Part 2, Article 13

Officers

<table>
<thead>
<tr>
<th>Post</th>
<th>Principal Areas of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director for Planning and Place</td>
<td>Development plans and developer funding; strategic development schemes; spatial and minerals and waste planning; waste management</td>
</tr>
<tr>
<td>Director for Capital Investment and Delivery</td>
<td>Estates and valuation; property services; corporate security.</td>
</tr>
</tbody>
</table>

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate officers to perform these statutorily prescribed roles as follows:

<table>
<thead>
<tr>
<th>Designation</th>
<th>Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head of the Council’s Paid Service</td>
<td>Chief Executive</td>
</tr>
<tr>
<td>Monitoring Officer</td>
<td>Director for Law and Governance</td>
</tr>
<tr>
<td>Chief Finance Officer</td>
<td>Director of Finance</td>
</tr>
</tbody>
</table>

The duties associated with these designations are set out in paragraphs 2 - 4 below.

(d) For the avoidance of doubt, the officers under (b) and (c) are also to be regarded as Directors for the purposes of this Constitution, in addition to any specific duties and delegations attaching to their posts.

2. **Functions of the Chief Executive**

(a) **Discharge of functions by the Council.** The Chief Executive 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 Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

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 available to councillors, staff and the public.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the full Council or, in the case of an executive function, to the Cabinet, 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.1

(c) **Supporting the Audit & Governance Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support and advice to the Audit & Governance Committee.

(d) **Receiving complaints.** The Monitoring Officer will receive and act on complaints about Councillor conduct.

(e) **Reviewing complaints.** The Monitoring Officer will review complaints in accordance with the Council’s arrangements for dealing with member complaints.

(f) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(g) **Advising whether executive 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) **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.

(i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

(j) **Issue of Guidance.** The Monitoring Officer will issue guidance from time to time on the discharge of the above functions.

### 4. Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the full Council or, in the case of an executive function, to the Cabinet, and to 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 Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.2

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1 _Section 5 of the Local Government & Housing Act 1989_
2 _Section 151 of the Local Government Act 1972_
(c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

5. **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

6. **Deployment and Management of Staff in General**

(a) The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out at Part 8.4 of this Constitution.

(b) The Head of Paid Service will determine and publicise a description of the overall structure of the paid service of the Council showing the management structure and deployment of officers. This is set out on the Council’s Intranet.

7. **Powers Exercisable by Officers**

Officers may exercise functions of the Council, the Cabinet and committees of the Council to the extent and subject to the conditions specified in the Officer Delegations set out in Part 7 of this Constitution.

8. **Sub-Delegation to Designated Officers**

The Chief Executive’s, Directors’ and other officers' powers conferred by this Section and its Appendices, including any proper officer functions, may be exercised by other officers designated in writing by the Chief Executive, relevant Director or other officer, either generally or in specific circumstances.

9. **Conduct of Officers**

Officers will comply with the Officers’ Code of Conduct and the Protocol on Member/Officer Relations.
Decision Making

1. Responsibility for Decision Making

The Council’s Constitution explains which parts of the Council, and which individuals, have responsibility for particular types of decision(s) relating to particular areas. These are set out in the relevant Articles, procedure rules and the scheme of delegation. The Council will maintain a record of executive decisions taken by officers.¹

2. Principles of Decision Making

All decisions of the Council or taken by or on behalf of the Council, will be made in accordance with the following principles:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);
(b) due consultation and the taking of professional advice from officers;
(c) respect for human rights, diversity and equality, and the natural and built environment;
(d) a presumption in favour of openness;
(e) clarity of aims and desired outcomes; and
(f) a record of decisions which explains what options were considered and giving the reasons for the decision as set out in the Access to Information Procedure Rules in this Constitution.

3. Types of Decision

(a) Decisions Reserved to Full Council

Decisions relating to the functions described in this Constitution as falling to the full Council only will be made by the full Council and not delegated.

(b) Key Decisions

A decision taker may only take a key decision in accordance with the requirements of the Cabinet Procedure Rules and Access to Information Rules in this Constitution. Regulations² define “key decision” as “an executive decision which is likely:-

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or

¹ In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) (England) Regulations 2012
² Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000
to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County.”

The Proper Officer in determining the meaning of significant will take into account of any guidance from the Secretary of State.3

A decision constitutes a key decision only if an outcome as determined by the Proper Officer will result directly from that decision (including a decision to adopt or alter policy), and not (for example) where the substantive decision which will produce that outcome has been or is required to be made by the full Council in accordance with the Budget and Policy Framework Procedure Rules; or where further consideration will be required following public or other consultation or any other process or procedure before the substantive decision is made.

It is the responsibility of the relevant Director, in consultation with the Cabinet Member(s) for the service area in question, to assess whether a decision expected to be made amounts to a key decision; and where a key decision is identified as a result of such assessment the Director shall immediately notify the Proper Officer to enable the decision to be entered in the Forward Plan, in accordance with the Access to Information Rules.

(c) Executive and Non-Executive Decisions

An executive decision other than a key decision can be taken by the Cabinet, a Committee of the Cabinet, an Individual Member of the Cabinet or an officer. Non-executive decisions are those decisions which relate to non-executive functions and are those which are set out in this Constitution and can be taken by a Council Committee or Sub-Committee or an officer.

4. Decision Making by the Full Council

Subject to (8) below, the Council meeting will follow the Council Procedure and Access to Information Procedure Rules set out in this Constitution when considering any matter.

5. Decision Making by the Cabinet

Subject to (8) below, the Cabinet will follow the Cabinet Procedure and Access to Information Procedure Rules set out in this Constitution when taking any decision at a public meeting.

3 In assisting the Proper Officer in determining the meaning of significant it has been defined as being 25% of the annual revenue budget for the relevant service block (i.e. that part of the Council’s total revenue budget allocated to the Cabinet Member for the service area concerned) or £500,000, whichever is the lower figure, and £1m in the case of capital expenditure; or 25% of the people living or working in the area affected; or 25% of the capacity, frequency or hours of operation of a service or facility.
6. **Decision Making by Scrutiny Committees**

Scrutiny Committees will follow the Scrutiny and Access to Information Procedure Rules set out in this Constitution when considering any matter.

7. **Decision Making by Council Committees and Sub-Committees**

Subject to (8) below, Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in this Constitution as apply to them and the Access to Information Procedure Rules.

8. **Decision Making by Council Bodies Acting as Tribunals**

The Council, a Committee or Sub-Committee of the Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing contained in Article 6 of the European Convention on Human Rights.

9. **Decision Making by Officers**

Officers taking decisions within their delegated authority will do so in accordance with this Constitution’s Scheme of Delegation and the appropriate Access to Information, Contract and Financial Procedure Rules. The decisions by officers on executive matters will be recorded by the Council.⁴

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⁴ In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) (England) Regulations 2012
Finance, Contracts and Legal Matters

1. Financial Management

The management of the Council’s financial affairs will be conducted in accordance with the Financial Procedure Rules set out at Part 8.2 of this Constitution and any guidance made under those rules.

2. Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out at Part 8.3 of this Constitution and any guidance made under those rules.

3. Legal proceedings

The Director of Law & Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to the decisions of the Council or in any case where s/he considers such action is necessary to protect the Council’s interests.

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 Director of Law & Governance or other person authorised by her/him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

5. Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Law & Governance. Where the execution of action approved by the Council, or of any part of it, acting in accordance with this Constitution, requires the use of the Common Seal of the Council, that approval is sufficient authority for affixing the Seal. The Seal shall be attested by the Director of Law & Governance or an officer designated by her/him for the purpose. An entry of every sealing of a document shall be made in a book provided for the purpose and shall be signed by the person who attested the Seal.
1. **ANNUAL MEETING OF THE COUNCIL**

1.1. **Timing and Business**

1.1.1. In a year when there is an ordinary election of councillors, the annual meeting will normally take place on the second Tuesday after the day of retirement of councillors or on such other day as the Chairman may determine after consultation with Group Leaders but within twenty-one days of the day of the retirement of the outgoing councillors\(^1\). In any other year the annual meeting will take place on the third Tuesday in May unless the Chairman determines otherwise after consultation with Group Leaders.

1.1.2. The Annual meeting will:

(i) elect a person to preside if the Chairman of Council is not present;

(ii) elect the Chairman of Council;

(iii) elect the Vice-Chairman of Council;

(iv) approve the minutes of the last meeting and receive for information any matters arising from them;

(v) receive any apologies for absence, official communications and announcements from the Chairman;

(vi) receive any declarations of interest from members;

(vii) elect the Leader of the Council (in a year when there is an ordinary election of councillors);

(viii) note the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader of the Council for the coming year and their respective portfolios;

(ix) appoint at least one scrutiny 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 Parts 5 and 6 of this Constitution) and appoint members to such committees;

(x) be deemed to have appointed, as alternate members for each member of the Council appointed to a committee, all those members of that member’s political group who are not for the time being members of that committee, save that only members of the Cabinet shall be deemed to have been appointed as alternate members for other members of the Cabinet and only non-Cabinet members shall be deemed to have been appointed.

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\(^1\) Para. 1 of Schedule 12 of the Local Government Act 1972
as alternate members for other non-Cabinet members on scrutiny committees;

(x) agree the scheme of delegation insofar as it relates to Council; and

(xii) consider any other business set out in the notice convening the meeting.

1.2. **Membership of Committees**

1.2.1. 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 to political groups in accordance with the political balance rules;

(iv) receive nominations of councillors to serve on each committee; and

(v) appoint to those committees.

2. **ORDINARY MEETINGS**

2.1. Ordinary meetings of the Council will normally take place on the:

- third Tuesday in February (the budget meeting);
- first Tuesday in April;
- second Tuesday in July;
- second Tuesday in September;
- first Tuesday in November;
- second Tuesday in December each year.

In all cases, the Chairman may determine otherwise after consultation with Group Leaders.

2.2. Except in the case of the February (or budget-setting) meeting, when sub-paragraphs (vii) to (xii) below will not apply, ordinary meetings of the Council will:

(i) elect a person to preside if the Chairman and Vice-Chairman are not present;

(ii) approve the minutes of the last meeting and receive for information any matters arising from them;

(iii) receive any apologies for absence, official communications and announcements from the Chairman;

(iv) receive any declarations of interest from members;
(v) make any changes that may be necessary to scrutiny and other council committees (see Rule 1.2.1);
(vi) receive any petitions and addresses from members of the public;
(vii) receive questions with notice from, and provide answers to, the public (see Rule 11);
(viii) deal with any business deferred from the last Council meeting;
(ix) receive a report from the Cabinet, and any reports from scrutiny and other committees of the Council and receive questions and answers on any of those reports;
(x) receive questions with notice from, and provide answers to, members of the Council;
(xi) consider motions of which prior notice has been given;
(xii) consider any other business specified in the notice convening the meeting;
(xiii) Consider any business which, by reason of special circumstances which shall be specified in the minutes, the Chairman agrees should be considered at the meeting as a matter of urgency.²

2.3 The Chairman shall have the discretion following consultation with Political Group Leaders to agree to and determine the arrangements for a themed debate

3. EXTRAORDINARY MEETINGS

3.1. Those listed below may require the Proper Officer to call Council meetings in addition to ordinary meetings and any extraordinary meetings convened under any other provision of this Constitution:

(i) the Council by resolution;
(ii) the Chairman of the Council;
(iii) the Monitoring Officer;
(iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2. At an extraordinary meeting the Council will, in addition to the business set out in sub-paragraphs (i) to (vi) of Rule 2 above, conduct only the specific business for which the meeting has been called, and any business which, by reason of special circumstances which shall be specified in the minutes, the Chairman agrees should be considered at the meeting as a matter of urgency.³

² Section 100B (4) of the Local Government Act 1972
³ See footnote 2. above
4. SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1. Powers and Duties

Substitute members will have all the powers and duties of any ordinary members of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

4.2. Substitution

Substitute members may attend meetings only:

(i) to take the place of the ordinary member for whom they are designated substitute;
(ii) where the ordinary member will be absent for the whole of the meeting;
(iii) after notifying the Proper Officer in writing; and
(iv) subject to any training requirements specified by the Monitoring Officer.

5. TIME AND PLACE OF MEETINGS

5.1. All meetings of the Council will:

(i) take place in the Council Chamber at County Hall, Oxford;
(ii) commence at 10.30 am;
(iii) be adjourned for lunch at 1 pm and finish by 3.30 pm;

subject to the Chairman, after consultation with Group Leaders where appropriate, varying any or all of the above. In all cases, the date, place and start time shall be set out in the summons to the meeting.

5.2. The Chairman will not close the meeting until all business required to be completed in order to comply with any requirement imposed by law or Government direction has been considered. Any other business not considered shall be deferred either to an adjourned meeting, to the next scheduled meeting or to an additional extraordinary meeting. The destination of such deferred business shall be determined by the Chairman. This does not apply to Motions on Notice received in accordance with Rule 13 below, which shall be considered to be dropped if they have not been proposed and seconded in accordance with Rule 15.1 below.

5.3. Where it appears likely that it will be necessary for the meeting to continue beyond the specified time, the Chairman will consult with the Group Leaders and consideration will be given to adjourning for a brief interval in which time refreshments, maybe provided.
6. **NOTICE OF AND SUMMONS TO MEETINGS**

The Proper Officer 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 Proper Officer will send a summons signed by him or her by post and electronic mail to every member of the Council or leave it at an agreed designated place for collection. 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.

7. **CHAIRING MEETINGS**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees. Once elected, a Chairman shall remain in office until a successor has been appointed.\(^4\)

8. **QUORUM**

The quorum of a meeting will be one quarter of the whole number of members, (or in the case of a committee or sub-committee, one quarter of the whole number of voting members, or three voting members, whichever is the greater, of whom a majority are members of the Council). During any meeting, if the Chairman 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 Chairman. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. **DURATION OF MEETING**

The duration of the meeting will be at the discretion of the Chairman (subject to Rule 5.1 above) and shall be set out in the summons to members of the Council where possible and, if not, in the Schedule of Business circulated on the day of the meeting.

10. **PETITIONS AND REQUEST TO ADDRESS THE COUNCIL**

10.1. **Petitions**

10.1.1. Any person (other than a member of the Council) may present a petition at a Council meeting provided that:

(i) the petition is relevant to a function which the Local Authority has a responsibility for and/or directly affects the County or its inhabitants; and

\(^4\) Section 3(3) of the Local Government Act 1972
(ii) notice of the desire to present the petition and information as to its subject matter is given to the Proper Officer not later than 9.00 am on the working day before the meeting;

(iii) The petition has been signed by a minimum number of 10 persons;

(iv) The Petition is shown to the Proper Officer directly prior to the meeting.

10.1.2. When petitions are presented:

(i) the presenter shall have the right to address the Council for not more than 3 minutes in support of the petition;

(ii) if the petition is directly relevant to an item in the agenda members shall have regard to it when discussing that item;

(iii) if the petition is not relevant to any item in the agenda, it shall be referred without debate to the Cabinet or the relevant committee or the appropriate Chief Officer to be dealt with;

(iv) all addresses shall be delivered from a location in the Council Chamber determined by the Chairman.

10.1.3. Any question as to the relevance of any petition shall be determined by the Chairman without debate.

10.1.4. The appropriate Chief Officer shall inform the petitioner within 10 working days what action will be taken as a result of the petition.

10.2. **Addresses**

10.2.1. Any person may address the Council on an item in the agenda for not more than 5 minutes provided that:

(i) notice of the request and the reasons for wishing to address the Council is received by the Proper Officer not later than 9.00 am on the working day before the meeting;

(ii) the subject matter is not defamatory, frivolous or offensive or of a personal nature towards a member of the Council or to its officers;

(iii) the Chairman shall determine the request and the time when the address shall be made; and

(iv) all addresses shall be delivered from a location in the Council Chamber determined by the Chairman.

10.2.2. At the discretion of the Chairman, members may seek clarification from the speaker of any issues raised during /his/her address.
In determining whether to allow a person to address a meeting under these Rules the Chairman should consider the previous opportunities taken by that person (including presenting a petition) (or by the organisation s/he represents) to address the Council, the Cabinet or a Committee on the same issue. Where there are a number of requests from persons wishing to present similar views on the same issue the Chairman may require that the views be put by a single spokesperson. It is expected that only in exceptional circumstances will a person (or organisation) be allowed to address more than one meeting on a particular issue, and then on not more than two occasions in any period of six months.

10.3. Chairman’s Discretion

The rights to present petitions to, and to address meetings under Rule 10 are subject to the Chairman’s discretion in determining who shall speak, the length of speeches and the order in which they shall be taken.

10.4. (i) City and District Councillors be given their own speaking slot at meetings of the County Council’s Planning & Regulation Committee at the discretion of the Chairman of the Committee and normally only where County Councillors enjoyed a similar privilege at District and City planning meetings;

(ii) where that reciprocal arrangement was not in place then District and City Councillors would retain the right to apply alongside other members of the public.

11. QUESTIONS BY THE PUBLIC

11.1. General

Members of the public may ask one question of the Leader of the Council, other members of the Cabinet and any Chairman of a scrutiny or other council committee at ordinary meetings of the Council.

11.2. Order of Questions

Subject to the maximum time allowed for public questions at any one meeting being 30 minutes, questions will be asked in the order notice of them was received by the Proper Officer, except that the Chairman may group together similar questions.

11.3. 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 Proper Officer no later than 2.00 pm on the second
working day before the meeting\textsuperscript{5}. 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.

11.4. **Number of Questions**

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

11.5. **Scope of Questions**

The Proper Officer may reject a question if it:

(i) is not about a matter for which the local authority has a responsibility or which directly affects the County;

(ii) is defamatory, frivolous or offensive;

(iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;

(iv) appears similar in nature to a question proposed by another person or organisation at the same meeting; or

(v) requires the disclosure of confidential or exempt information.

11.6. **Record of Questions**

The Proper Officer will record each question and make it available for public inspection and will immediately send a copy of the question to the member to whom it is to be put.

11.7. **Asking the Question at the Meeting**

The Chairman 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, the member’s written response will constitute the formal reply on behalf of the Council.

11.8. **Supplementary 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/her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds set out in Rule 11.5 above.

\textsuperscript{5} For a meeting on a Tuesday, the deadline is 2.00 pm on the previous Friday, provided neither Friday nor Monday is a Bank Holiday (when the deadline would be 2.00 pm on Thursday if Monday is a Bank Holiday, or 2.00 pm on Wednesday if both Friday and Monday are Bank Holidays).
11.9. **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 deemed dealt with by the provision of a written answer.

11.10. **Reference of Question to the Cabinet or a Committee**

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

**12. QUESTIONS BY MEMBERS**

12.1. **Questions without Notice on Reports of the Cabinet or Committees**

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

12.2. **Questions on Notice at Full Council**

12.2.1. Subject to Rule 12.3, a member of the Council may ask up to 3 questions with notice of:

(i) the Leader of the Council;
(ii) other members of the Cabinet; or
(iii) the Chairman of a scrutiny or other council committee;

at ordinary meetings of the Council on any matter in relation to which the Council has powers or duties which affects the County.

12.2.2. Subject to the maximum number of questions from any member being 3, the time allowed for councillors’ questions with notice at any one meeting being 30 minutes, questions will be asked in the order notice of them was received by the Proper Officer, except that the Chairman may group together similar questions.

12.3. **Notice of Questions**

12.3.1. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than 2.00 pm on the seventh working day before the meeting. Each question

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6 For a meeting on a Tuesday, the deadline is 2.00 pm on the second Friday before the meeting, provided neither Friday nor Monday is a Bank Holiday (when the deadline would be 2.00 pm on the second Thursday before the meeting if Monday is a Bank Holiday, or 2.00 pm on the second Wednesday before the meeting if both Friday and Monday are Bank Holidays).
must give the name of the questioner and must name the member of 
the Council to whom it is to be put.

12.3.2. The Proper Officer may reject a question if it:

(i) is not of direct relevance to the functions and responsibilities of 
the County Council or local issues involving other local public 
bodies (as set out in Appendix 1)
(ii) is defamatory, frivolous or offensive; or
(iii) is substantially the same as a question which has been put at a 
meeting of the Council in the past six months.

If answering a question would require the disclosure of 
confidential or exempt information, then the Proper Officer shall 
reply in writing in a confidential manner;

(iv) can be directed for local response by a Cabinet Member where 
the question has a particularly local focus.

12.3.3. In all cases the final decision on whether a question is appropriate falls 
to the Chairman of the Council.

12.4. Record of Questions

The Proper Officer 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. That Member must give her/his reply to the Proper Officer by 2.00 
pm on the second working day before the meeting. Rejected questions will 
include reasons for rejection. Copies of all accepted questions and replies will 
be circulated to all members on the day prior to the meeting and will be made 
available to the public attending the meeting.

12.5. Supplementary Question

12.5.1. The Chairman will ask the questioner if s/he wishes to ask one 
supplementary question without notice to the member of whom the first 
question was asked;

12.5.2. A supplementary question must arise directly out of the original 
question or the reply and can only be allowed when the original 
question is a question on notice. The Chairman may reject a 
supplementary question on any of the grounds in Rule 12.3.2 above;

12.5.3. Unless the Chairman decides otherwise, no discussion will take place 
on any question, but any member may move that a matter raised by a 
question be referred to the Cabinet or the appropriate committee. 
Once seconded, such a motion will be voted on without discussion;
12.5.4. A summary of the supplementary question and response will be recorded in the minutes.

12.6. **Response to Supplementary Question**

An answer may take the form of:

12.6.1. a direct oral answer;

12.6.2. where the desired information is in a publication of the Council or other published work, a reference to that publication; or

12.6.3. where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and copied to all Members of the Council.

13. **MOTIONS ON NOTICE**

13.1. **Notice**

13.1.1. Any member of the Council wishing to propose a motion for consideration at a meeting of the Council shall give to the Proper Officer the proposed wording of the motion in writing or by electronic mail before 2.00 pm on the tenth working day before the meeting, Subject to the maximum number of motions from any member being 3,

13.1.2. A motion which, in the opinion of the Chairman, following advice from the Monitoring Officer, offends against the requirements in Rule 13.3 (Scope) shall be excluded from the agenda but the member who gave notice of it shall first be advised and allowed the opportunity to modify the motion to make it acceptable.

13.2. **Motion set out in Agenda**

13.2.1. Motions for which notice has been given will be listed on the agenda in the order in which notice was received by the Proper Officer, subject to one motion from each political group being considered in the order determined by the Chairman in consultation with the Group Leaders;

13.2.2. All other motions will appear on the agenda in the order in which they were received unless the member giving notice states, in writing, that s/he proposes to move it to a later meeting or withdraw it.

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Currently limited to those entitled to an ‘assistant’ under section 9 of The Local Government and Housing Act 1989
13.3. **Scope**

A motion shall not exceed 250 words, shall be of direct relevance to the functions and responsibilities of the County Council or local issues involving other local ‘public bodies’ (as set out in Appendix 1) and shall include nothing which is defamatory, frivolous, offensive, irrelevant or deemed as ‘time wasting’ and shall not be the same as a motion which has been considered in the past six month period (subject to the provisions of paragraph 16).

13.4. **Recommendations of the Cabinet, a Committee or an Officer**

Any recommendation from the Cabinet, a committee of the Council or an officer shall be treated as a Motion on Notice but Rules 13.1, 13.2, 13.3 (in relation to the 250 word limit) and 13.5.1 (ii)(a) shall not apply.

13.5. **Treatment of Motions**

13.5.1. Any motion included in the agenda will be proposed and seconded at the meeting in accordance with Rule 15.1 when the Council will:

(i) in the case of a motion which if adopted would constitute the exercise of an executive function, debate it and refer it to the Cabinet together with any advice the Council may wish to give;

(ii) in the case of any other motion, except at the February (or budget setting) meeting:

(a) debate and determine the motion, provided that the motion if carried at the meeting would not:

   - introduce a new policy; or
   - change an existing policy; or
   - involve additional significant expenditure (that is, expenditure of £10,000 or more); or
   - offend against a statutory requirement; or

(b) defer the motion for debate at the next or a future meeting in the light of advice from the Cabinet, the appropriate scrutiny committee or other committee of the Council; or

refer the motion to the appropriate scrutiny or other committee of the Council for debate and determination;

13.5.2. Where a motion is referred to the Cabinet, or a scrutiny or other committee, of the Council the Proper Officer will ensure that the motion is placed on the next appropriate agenda for that body in accordance with the relevant procedure rules set out in this Constitution. That body will then consider how the motion will be dealt with.

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8 Those with a ‘duty to cooperate’ except The Broads Authority, National Park Authorities, Transport for London and Metropolitan Passenger Transport Authorities which are not of relevance to Oxfordshire for this purpose.
13.5.3. The member whose motion has been referred to the Cabinet or a scrutiny or other committee of the Council may attend and speak to, but not vote on, her/his motion at the meeting when the motion is debated. This does not prevent a member exercising her or his rights by virtue of /his/her membership of the Cabinet or the relevant committee.

13.5.4. Where a motion has been determined by the Council and the Council’s decision then requires the Cabinet to consider taking action on the issue(s) raised in that motion, the originator of the motion may attend and speak, but not vote, on the matter at the meeting of the Cabinet when it is discussed.

13.5.5. Any motion or amendment not proposed and seconded in accordance with Rule 15.1 below shall be considered as dropped.

13.5.6. A motion to amend a motion of which notice has been given under this Rule shall be considered only if presented to the Proper Officer in writing or electronic mail by 9.00 am on the working day before the meeting.

13.5.7. A motion to amend a motion on a matter referred from the Cabinet, or a scrutiny or other committee to the Council for decision shall be considered only if presented to the Proper Officer in writing by 9.00 am on the working day before the meeting.

13.5.8. At the end of the meeting, any motions not proposed and seconded in accordance with Rule 15.1 below shall be considered dropped (see Rule 5.2 above).

13.5.9. In the case of debate about the budget, the rules on the treatment of motions, are subject to the Budget and Policy Framework Rules (Part 3.2 of the Constitution).

14. MOTIONS WITHOUT NOTICE

14.1. The following motions may be proposed without notice:

(i) to propose a person for election to the office of Chairman or Vice-Chairman or to appoint a Chairman to preside at that meeting;

(ii) in relation to the accuracy of the minutes;

(iii) to change the order of business in the agenda;

(iv) to refer a matter to an appropriate body or individual;

(v) to withdraw a motion;

(vi) to amend a motion or amendment which arises in the course of debate in which case, provided it is accepted by the proposer and seconder of the motion or amendment and the Council consents, the motion or amendment under debate shall be amended accordingly;
(vii) that the question be now put;
(viii) to adjourn the debate;
(ix) to adjourn the meeting;
(x) to suspend a specified Council Procedure Rule or part thereof;
(xi) to exclude the public where exempt or confidential information as defined in the Access to Information Procedure Rules may be disclosed;
(xii) that a member be not further heard or that a member be required to leave the meeting;
(xiii) to give consent of Council where it is required under these Procedure Rules;

14.1.2. to enable a decision to be reached:
   (i) on a matter referred by the Cabinet or any scrutiny or other committee to the Council for decision but where no recommendation has been made by the Cabinet or the committee; and/or
   (ii) when no decision has been reached by the Cabinet or the committee; and

14.1.3. a motion in relation to an item of business which is urgent under Section 100B(4) of the Local Government Act 1972.

15. RULES OF DEBATE

15.1. No Speeches until Motion Seconded

No motion or amendment shall be debated unless it has been proposed and seconded. Any motion or amendment not proposed and seconded shall be considered dropped.

15.2. Right to Require Motion in Writing

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

15.3. Seconder’s Speech

A member seconding a motion or amendment may reserve her/his speech until later in the debate but shall lose the right to speak if a motion under Rule 14.1 (vii) “that the question be now put” is carried.

15.4. Content and Length of Speeches

15.4.1. Speeches must be directed to the motion under discussion or to a personal explanation or point of order and it shall be the duty of the Chairman to stop discussion which, in her/his judgement, is irrelevant.
15.4.2 A member when proposing a motion or amendment shall not speak for more than five minutes and any other member speaking or making a statement on that same motion or amendment or any other motion deemed to be moved under these Procedure Rules for not more than three minutes without the consent of the Council, subject to these time limits being extended at the February (or budget setting) meeting to ten minutes and five minutes respectively when discussing the budget, subject to in all cases, the Chairman of the Council having the discretion to limit the number of persons who may speak on any issue and the order of speaking in the best interests of the efficiency of the meeting.

15.5. **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:

15.5.1. to speak once on any amendment moved by another member; or

15.5.2. if her/his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried); or

15.5.3. in exercise of a right of reply; or

15.5.4. on a point of order (see definition, Rule 15.12); or

15.5.5. by way of personal explanation (see definition 15.13).

unless the Chairman determines otherwise.

15.6. **Amendments to motions**

15.6.1. An amendment to a motion must be relevant to the motion which it seeks to amend and will be either:

(i) to refer the matter to an appropriate body or individual for consideration or reconsideration; or

(ii) to leave out words and/or insert or add other words

but any such amendment shall not have the effect of introducing a substantially different proposal into, or negating the whole motion. The amendment must not take the original motion over 250 words.

15.6.2. Only one amendment will be moved and discussed at any one time, unless the Chairman determines otherwise (such as grouping amendments together) to allow for the efficient running of business. No further amendment will be moved until the amendment under discussion has been dealt with unless in view of the Chairman the
efficient despatch of business would be assisted if two or more amendments were debated simultaneously before being put (separately) to the vote.

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

15.6.4. A member shall not, without the consent of Council, propose more than one amendment.

15.6.5. If an amendment is carried the motion as amended shall become the substantive motion to which further amendments may then be proposed.

15.6.6. Any subsequent amendments shall be acceptable only where, in the opinion of the Chairman, they differ significantly from the amendment(s) previously rejected.

15.6.7. If any amendment is carried the proposer of any amendment on notice yet to be discussed shall be offered the opportunity to amend her/his amendment in the light of the new substantive motion.

15.6.8. After an amendment has been carried, the Chairman will ensure that members are clear on the wording of the amended motion and, if necessary, read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.

15.7. Alteration of Motion

15.7.1. A member may alter a motion of which s/he has given notice with the consent of the meeting. The meeting’s consent will be signified without discussion.

15.7.2. Only alterations which can be made as an amendment may be made (see Rule 15.6 above).

15.8. Withdrawal of Motion

A motion or amendment once proposed shall not be withdrawn except with the agreement of the seconder and the consent of the Council. 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.

15.9. Right of reply

15.9.1. The mover of a motion has a right of reply at the end of the debate on the motion, immediately before it is put to the vote.
15.9.2. If an amendment is moved, the mover of the original motion has the right of reply immediately before the amendment is put to the vote, but may not otherwise speak on it.

15.9.3. The mover of the amendment shall have a right of reply immediately prior to that final right of reply.

15.9.4. A member exercising a right of reply shall not introduce new matter.

15.10. **Motions which may be moved during the debate**

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

15.10.1. to withdraw a motion;

15.10.2. to amend a motion (see Rule 13.5.6 and Rule 14.1 (vi));

15.10.3. to adjourn the debate;

15.10.4. to adjourn the meeting;

15.10.5. to exclude the public and press in accordance with the Access to Information Rules; and

15.10.6. to not hear further a member named under Rule 22.3 or to exclude him/her from the meeting under Rule 22.4.

15.11. **Closure Motions**

15.11.1. A member who has not already spoken may move, without comment, at the end of a speech of another member ‘that the question be now put’.

15.11.2. A member who has not already spoken may move, with explanation, at the end of a speech of another member to adjourn the debate.

15.11.3. If a motion ‘that the question be now put’ is seconded and the Chairman thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote save that any member who has already spoken during the preceding debate shall be precluded from voting on this procedural motion. If it is passed, subject to the relevant Cabinet member having a right to speak immediately prior to the right of reply, s/he will give the mover of the original motion a right of reply before putting her or his motion to the vote.
15.12. **Point of Order**

A member may raise a point of order at any time. The Chairman will hear her/him 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 Council Procedure Rule or law and the way in which s/he considers it has been breached. The ruling of the Chairman on the matter will be final.

15.13. **Personal Explanation**

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

15.14. **Time Limit for Debate**

15.14.1. Each debate on a motion (including any amendments) shall be subject to a time limit, which shall be determined by the Chairman following publication of the agenda and following consultation with Group Leaders at the pre-meeting briefing meeting. The respective time limits shall be determined having regard to the overall content of the agenda and on the basis of an initial presumption of a maximum of 30 minutes for any one debate (excluding themed debates, where a maximum of 2 hours shall be applied), and shall be notified to members through the published Schedule of Business; provided that the Chairman may extend the time limit for debate on a motion if, during the debate, the Chairman thinks it desirable to allow extra time for that debate but only to take up time gained on the early despatch of previous business. At the conclusion of the time allocated to a debate, the Chairman will draw the attention of the meeting to this Rule. The debate shall immediately be concluded as if the motion “that the question be now put” had been moved and carried in accordance with Rule 15.11.3 above, subject to the right of any seconder who has reserved her/his speech until later having the right to speak before the rights of reply are exercised.

15.14.2. Where an item on an agenda (for example the Report of the Cabinet) contains a number of items of business or where items of business (for example Motions on Notice) have been grouped together on an agenda each such item or grouping shall be deemed to constitute a ‘category’ of business. In such circumstances the Chairman, following publication of the agenda and subsequent consultation with Group Leaders, shall determine an overall time limit to be applied to each such category. The time limits so allocated shall be determined and notified in accordance with the arrangements set out at Rule 15.14.1 above. Any business which remains unfinished at the expiry of the time set down shall be deferred either to an adjourned meeting, to the next scheduled meeting or to an additional, extraordinary meeting.
The destination of such deferred business shall be determined by the Chairman. This does not apply to Motions of Notice received in accordance with Rule 13 above not proposed and seconded in accordance with Rule 15.1 above, which shall be considered to be dropped.

15.14.3. It shall be the duty of the Chairman to ensure as far as possible that all points of view are heard and that repetition is avoided.

15.14.4. The decision of the Chairman on all questions relating to the conduct of the meeting, the relevance and regularity of the proceedings and her/his interpretation of the Procedure Rules shall be final.

16. PREVIOUS DECISIONS AND MOTIONS

16.1. Motion to rescind a previous decision

No motion or amendment to a motion to reverse a decision made at a meeting of the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 10 members (including the proposer).

16.2. Motion similar to one previously rejected

No motion or amendment to a motion to the same effect as one rejected by the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 10 members (including the proposer). Once the Council has determined such a motion or amendment, no one may propose a similar motion or amendment within a further period of twelve months.

16.3. The requirements in Rules 16.1 and 16.2 above shall not apply where the motion in question arises from the recommendation of the Cabinet or a committee.

17. VOTING

17.1 Unless this Constitution provides otherwise, any matter will be decided by either a clear majority of those present in the room by a show of hands (nem con) or by an electronic vote which shall record each member and how they have voted. Members shall not be entitled to have their vote counted or recorded unless, when the vote is commenced, they are in a seat in the Council Chamber.

17.2 The outcome of the vote shall be recorded by number of votes in the minutes and a detailed copy of the votes (names of members and how they voted) shall be placed on the Council’s website.

17.3 The Chairman shall have discretion as to the voting method to be adopted.
17.4 Recorded Vote

17.4.1 If the chairman or seven members, by standing in their places so require (whether before or after a show of hands or electronic vote, but before the next business has commenced) a named vote shall be taken when each member shall be called upon to register his/her vote electronically for or against the motion (or, if required by the Chairman, saying ‘yes’, ‘no’ or ‘abstain’). Where a member makes an error in registering his/her vote s/he may rectify the error provided this is done before the electronic vote has closed (or the next member has been called upon to vote). The Chairman will clarify with Council that all members have voted prior to closing the vote.

17.4.2 Where a named vote is taken the names of those members voting for and against the motion and those members abstaining from voting shall be recorded in the minutes.

17.4.3 Where under Rule 17.4.1 above, a named vote is taken after an electronic vote or show of hands, the named vote is a separate vote for the purposes of Rule 17.1.1 above and shall take precedence over the earlier determination.

17.5 Budget Meeting

Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

17.6 Right to require individual vote to be recorded

Where any member requests it immediately after a vote is taken, h/his/her vote will be so recorded in the minutes to show s/he voted for or against the motion or abstained from voting.

17.7 Chairman’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.

17.8 Voting on appointments

17.8.1 Where a vote is required on an election or appointment and two persons are nominated, the Chairman shall call for an electronic vote on the first nomination, followed by an electronic vote for the second nomination. No member shall vote for both nominees.
17.8.2 Where a vote is required on an election or appointment and more than two persons are nominated the following procedure shall apply:

(i) members will be invited to vote for one of the nominees;
(ii) if one nominee secures an absolute majority of those present and voting, s/he shall be declared elected/appointed;
(iii) if no nominee secures an absolute majority of those present and voting, the nominee with the least number of votes shall be eliminated from the contest;
(iv) steps (i) - (iii) will be repeated until one nominee wins an absolute majority of those present and voting.

17.9 Division Bell

No question shall be put to the vote until 1½ minutes have elapsed from the time the division bell is first rung, unless the Chairman determines that it is appropriate immediately to proceed to the vote.

18. MINUTES

18.1. Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting(s) be signed as a correct record. The only part of the minutes that can be discussed at this point in the meeting is their accuracy.

18.2. No requirement to sign minutes of previous meeting at an extraordinary meeting

Where in relation to any meeting of the Council the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the Council (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing minutes) of that Schedule.

18.3. Form of minutes

Minutes will contain all motions and amendments in the exact form and order that they were put to the meeting.

19. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names in the attendance book before the conclusion of every meeting to assist with the record of attendance.
20. **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 8 of this Constitution or Rule 21 (Disturbance by Public).

21. **DISTURBANCE BY PUBLIC**

21.1. **Removal of member of the public**

If a member of the public interrupts proceedings at any meeting, the Chairman shall warn her/him. If s/he continues the interruption, the Chairman will order her/him to leave the meeting room. If s/he does not leave, the Chairman shall order her/him to be removed. If a member of the public persistently creates a disturbance, the Chairman may adjourn the meeting for fifteen minutes or as long as s/he thinks necessary.

21.2. **Clearance of part of meeting room**

In the event of general disturbance by the public at a meeting the Chairman shall order part or all of the area occupied by the public to be cleared and may adjourn the meeting for fifteen minutes or as long as s/he thinks necessary.

22. **MEMBERS’ CONDUCT**

22.1. **Standing to Speak**

A member of the Council, unless disabled, shall stand when speaking and shall address the Chairman. If more than one member rises to speak the Chairman shall determine the order of speaking. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a personal explanation.

22.2. **Chairman Standing**

If during the meeting the Chairman rises all other members shall be seated and remain silent.

22.3. **Member not to be Heard Further**

If a member in the opinion of the Chairman, misconducts her/himself by persistently disregarding the ruling of the Chairman, by using offensive expressions or gestures, or by otherwise behaving improperly or obstructing the business of the meeting, the Chairman may require that the member named withdraws any offensive expression or gesture and may also move that the member named be not further heard. If seconded, this motion shall be put to a vote without debate. If carried, the member named shall not speak further at the meeting.
22.4. **Member to Leave the Meeting**

If the member continues to behave improperly after such a motion is carried, the Chairman may move either that the member named shall leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion shall be put to a vote without debate. If required by a vote of the Council, the member named shall immediately leave the meeting.

22.5. **General Disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for fifteen minutes or for as long as s/he thinks necessary.

23. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

23.1. **Suspension**

All of these Council Rules of Procedure except Rule 17.5 and Rule 18.2 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.

23.2. **Amendment**

Unless arising directly from a recommendation from the Cabinet, a committee of the Council or an officer, 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.

24. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

24.1. All of the Council Rules of Procedure apply to meetings of full Council but do not apply to meetings of the Cabinet or meetings of scrutiny committees except as expressly stated in the Cabinet Procedure Rules and Scrutiny Procedure Rules respectively.

24.2. Where relevant and subject to any necessary changes of terminology (e.g. sub-committee for committee) the following Rules only shall apply to meetings of committees and sub-committees.

- Rule 1.1.2 (i) – (vi), (xi) and (xii)
- Rule 2.2 (i) – (iv), (vi), (xii) and (xiii)
- Rules 3 and 4
- Rules 6 – 8 (as far as is practicable)
- Rule 10
- Rule 14 (with the addition of ‘amend a motion’ at 14.1)
Rule 15 (with the exception of 15.14.1 and 15.14.2 and subject to the Chairman’s discretion to allow a member to speak for longer than the times stated in 15.4.2 or to speak more than once in the interests of a better informed debate)
Rules 17–23 (with the exception of 17.7 and 23.1)
LOCAL PUBLIC BODIES

Local ‘public bodies’ referred to in Rule 13\(^9\) (others may be added by Secretary of State by Order)

- District councils
- The Environment Agency
- Natural England
- Fire and rescue authorities
- Jobcentre Plus
- The Health and Safety Executive
- Youth Offending Teams
- Police authorities
- Chief Officer of Police
- Local Probation Boards
- Probation Trusts and other providers of probation services
- Primary Care Trusts
- National Health Service Trusts
- NHS Foundation Trusts
- Joint Waste Authorities
- Joint Waste Disposal Authorities
- Regional Development Agencies
- The Learning and Skills Council
- Sport England
- English Heritage
- Arts Council
- Museums, Libraries and Archives Council
- Highways Agency

\(^9\) Bodies which are not of relevance to Oxfordshire for this purpose are The Broads Authority, National Park Authorities, Transport for London and Metropolitan Passenger Transport Authorities.
Virtual Meetings Procedure Rules

To set out temporary arrangements for the effective management of virtual meetings. These arrangements override any provision made in other parts of the Constitution and in the event of any conflict these temporary arrangements should take precedence. These rules have been made by the Monitoring Officer in accordance with Article 2 Rule 5.2(a) of the Council’s Constitution in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the ‘Regulations’) and will remain in force until those Regulations are repealed. These rules are consistent with the purposes of the Constitution outlined in Article 1.

Listed in Appendix 1 are provisions in the Constitution that are affected by or disapplied by these Rules.

Appendix 2 provides a protocol for members on the running of meetings where there is virtual attendance.

1. General

1.1 A virtual meeting is a meeting of the Council, Cabinet, Committee or Sub-committee of the Council held by remote access and where virtual attendance by Members of the Council is by way of MSTeams Live Event or such other platform as provided.

1.2 Attendance of the public and public address at virtual meetings open to the public will be via the platform provided.

1.3 The Council, Cabinet and all Committees of the Council may hold all such virtual meetings that are deemed necessary and where such meetings are held these rules of procedure shall apply.

2. Annual Meeting of the Council

The Annual Meeting of the Council will not be held in May and appointments to the Chairman, Deputy Chairman of the Council and appointments to other Committees will remain the same until the Annual meeting is held or until such time as the Council determines.

3. Notice of and Summons to the Meeting

3.1 The Proper Officer will give notice to the public of the time and place of any meeting by publication of the details on the website. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by electronic mail to every member of the Council. 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.
3.2 **Calling Urgent Virtual Meetings**

The Proper Officer may, following consultation with the Chair of the Performance Scrutiny Committee, call an urgent virtual meeting without notice. The reasons for calling an urgent virtual meeting shall be clearly stated at the beginning of the urgent virtual meeting.

3.3 **Moving or cancelling virtual meetings**

The Proper Officer may, following consultation with the Chair of the relevant virtual meeting move or cancel a virtual meeting without notice.

4. **Access to Virtual Meetings**

4.1 Press and members of the public will be able to access virtual meetings using MS Teams Live Event or such other platform provided.

4.2 The press and members of the public will not be able to access those parts of the meeting considering exempt information.

5. **Petitions and Public Address**

5.1 Where a meeting is held virtually, members of the public will be able to participate in the following ways.

5.2 **Public Speakers**

Any person may address via the platform provided the Council, Cabinet or other Council Committee or an item in the agenda for not more than 5 minutes provided that

(i) notice of the request and the reasons for wishing to address the Council is received by the Proper Officer not later than 9.00 am four working days before the meeting;

(ii) a written copy of the statement is provided not later than 9.00 am two working days before the meeting.

Where a meeting is held virtually, and the addressee is unable to participate remotely their written submission will be accepted. This should be no longer than 1 A4 sheet. Notification requirements remain the same as set out above.

5.3 **Petitions**

Any person (other than a member of the Council) may present a petition at a Council meeting provided that:
(i) notice of the desire to present the petition and the wording of the petition is given to the Proper Officer not later than 9.00 am on four working days before the meeting;

(ii) the Petition is emailed to the Committee Officer named on the agenda 2 working days prior to the meeting.

When petitions are presented the presenter shall have the right to address the Council for not more than 3 minutes in support of the petition. Where a meeting is held virtually, and the addressee is unable to participate remotely their written submission will be accepted. This should be no longer than 1 A4 sheet. Notification requirements remain the same as set out above.

6. **Motions**

Where Full Council meetings are held virtually the provision for members to submit a Motion will be disapplied temporarily with a review before each subsequent meeting.

7. **Voting**

7.1 At a meeting using virtual meeting technology any matter will be decided by a clear majority of those in attendance, physically or virtually by an electronic vote which shall record each member and how they have voted.

7.2 Recorded Vote - If the chairman or seven members, indicate after an electronic vote, but before the next business has commenced) a named vote shall be taken when each member shall be called upon to register his/her vote electronically: for or against the motion (or, if required by the Chairman, saying ‘yes ‘no’ or ‘abstain’). The Chairman will clarify with Council that all members have voted prior to closing the vote. The method to indicate a named vote will be via the electronic solution provided by the broadcast system.

7.3 Where under Rule 7.2 above, a named vote is taken after an electronic vote, the named vote is a separate vote for the purposes of Rule 7.2 above and shall take precedence over the earlier determination.

**Review**

These rules will be kept under regular review and updated as necessary by the Monitoring Officer under Article 2 Rule 5.2(a).

May 2020
## Appendix 1

<table>
<thead>
<tr>
<th>Rules</th>
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| Annual Meeting Provisions | |
| Council Procedure Rules (CPR) – 1 | Annual meeting provisions | Disapply |
| Article 5 Chairman of the Council | Annual meeting provisions | Disapply provision relating to annual election. |
| Article 8 Oxfordshire Health Overview & Scrutiny Committee | Annual meeting provision | Disapply reference to the Council’s annual meeting. |

| Notice of and Summons to a Meeting | |
| CPR 6 | | Disapply by post |
| CPR 5 | Place of Meetings | Amended to allow virtual meetings |

| Access to Virtual meetings | |
| Access to Information Rules | Access to Agenda Paper | Disapply provision by post and access via Council buildings and replace with publication on the web site |

| Access to Agenda and Report | |
| Access to Information Rules (AIR) 5 | Inspection of agenda and reports at County Hall | Disapplied |
| AIR 8 | Access to background documents | Disapply provision for physical access and replace with electronic access |
| AIR 14 and 15 | Access to Forward Plan and related Notices | Physical provision at County Hall replaced by electronic access. |

| Petitions and Public Address | |
| - petitions | |
| CPR 10 | Ability for the public to submit petitions | Additional provision amending deadlines and making provision for virtual attendance and written submission |
| Also | |
| Article 3 Rule 1(b) (ix) Petitions | |
| Article 3 Rule 1(c) Speakers | |

| - public address | |
| CPR 10 | Ability for the public to make a public address | Additional provision amending deadlines and making provision for virtual attendance and written submission |
| Also | |
| Article 3 Rule 1(c) | |
| Article 8 Rule 11 | |

<p>| - questions from the public | |
| CPR 11 | Ability for the public to ask written questions | Disapplied |</p>
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<td>CPR 17 Also Article 8 Rule 10 Article 10 Rule 5 Article 12 Schedule 4 Annexes 2 &amp; 3</td>
<td>Requirement to be present in the room in order to vote</td>
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<td>Replaced by provision for attendance and voting to be permissible virtually.</td>
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<td>Leaving the room to include removal from the virtual meeting.</td>
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</table>
Councillor Protocol for Virtual Public Meetings (including public attendance)

Additional protocol for virtual meetings, to be considered alongside standing orders:

**General points about councillors joining and participating in a virtual meeting**
- Councillors are encouraged to join the meeting well in advance (i.e. at least fifteen minutes before the scheduled start time) in order to avoid disrupting the meeting and to ensure any technical issues can be resolved with ICT.
- Where using video-enabled equipment, councillors should leave their cameras on throughout the meeting as far as practicable.
- Councillors should try to go to a quiet location for the Meeting with minimum disruptions and blur their backgrounds.
- **In all cases councillors will need to unmute their microphone before speaking and mute when they have finished speaking.**
- The Chairman will remind councillors to mute their microphones when not speaking. This is done in order to reduce feedback and background noise.
- Councillors are reminded that virtual meetings are generally public meetings and members of the public will be able to view them and Councillors should be mindful of this in their conduct and dress code.
- Non-verbal communication such as body language may be picked up and broadcast even when not speaking.
- Please be patient with one another and your Chairman.

**Protocol for councillors speaking at meetings**
- The Council will endeavour to put in place a technological solution that will enable councillors participating in meetings virtually to indicate their wish to speak.
- Notwithstanding this, in the case of Council and Cabinet meetings, councillors who wish to speak on a particular item should indicate their wish to speak to the Chairman and to Democratic Services in advance of the meeting through the normal Schedule of Business Process. Political groups are encouraged to coordinate this activity where possible. The Chairman will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers. The Chairman’s ruling in this regard shall be final.
- **At the end of the debate, when all speakers have been heard, the Chairman will ask those present if anyone else wishes to speak.**
- Speeches will be timed in accordance with the Constitution, however, the Democratic Services Officer shall give the 30 second warning.
- Interruptions, such as ‘point of order’ should be keep to an absolute minimum and raised at the end of a speech not during.
- In the case of other meetings, the Chairman may ask each person in turn if they have any points they wish to raise on a particular item before completing the discussion on that item.
- When referring to reports or making specific comments, councillors should refer to the report and page number so that all members have a clear understanding of what is being discussed at all times.
Dealing with Disclosable Pecuniary Interests (DPI)

- Where a member has disclosed a DPI or other declaration in an agenda item that requires them to be absent from the meeting for that item, the member should leave the virtual meeting for the duration of the item. Failure to do so would be a breach of the council’s code of conduct.
- At the conclusion of the item, the Chairman and Democratic Services Officer will ensure that any member who has absented themselves from the meeting has re-joined the meeting before moving to the next agenda item.

Voting

- Councillors participating in meetings virtually will indicate their vote by way of an electronic poll and must wait for the Chairman to indicate that members should vote. Your voting option will appear on the screen in front of you. **Thirty seconds will be given prior to the vote to ensure everyone is ready.**
- Should there be technical difficulties, where a vote is required on a particular item, the Chairman may ask each member (of the committee) to vote in turn. Councillors should express their vote verbally. This will not be included as a recorded vote in the minutes.
- The Democratic Services Officer will record the outcome of votes and announce the decision to the meeting.

Participation by members of the public

- Members of the public who wish to observe the proceedings of a committee are able to do so by watching the live stream. The Council will make a live stream available on an appropriate channel and will publicise this on the agenda for that particular meeting.
- Public participation will be permitted in line with the procedures set out in the Constitution. A member of the public who has been given permission by the Chairman to address a meeting in accordance with the Council’s Meeting Procedure Rules will be invited to participate in the virtual meeting for the purpose of speaking to the meeting. The Chairman may re-order the agenda in order to facilitate this participation at the beginning of the meeting.
- Members of the public who have been given permission by the Chairman to address a meeting may read out their written statement, of which prior notice will have been given in line with the public participation procedure in the Constitution when invited to do so by the Chairman.
- The public must provide the written statement to the relevant office 2 working days prior to the meeting. As an alternative, if a member of the public who wishes to address the meeting but is unable to join for technological reasons, they may submit a written statement that can be read out by the Chairman or Democratic Services Officer at the appropriate time.

Dealing with exempt items of business

- There are times when council meetings are not open to the public, when confidential, or “exempt” information – as defined in Schedule 12A of the Local Government Act 1972 – is under consideration.
- Any councillor in virtual attendance who fails to disclose that there are in fact persons present who are not so entitled will be in breach of the Council’s Code of Conduct.
Dealing with technical difficulties

- In the event that the Chairman or Democratic Services Officer identifies a failure of the virtual participation facility, the Chairman will declare a recess while the fault is addressed.
- If it is not possible to address the fault and the meeting is quorate, the meeting will be abandoned until such time as it can be reconvened. If the meeting is quorate, the meeting will continue. Those attending virtually would be aware and accept that the meeting would continue, and a vote would be taken without their attendance.
- If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, in consultation with the Monitoring Officer and where appropriate/possible the relevant cabinet member, shall explore such other means of taking the decision as may be permitted by the Council’s constitution.

Interpretation of standing orders

- Where the Chairman is required to interpret the Council’s existing standing orders in light of the requirements of virtual participation, he or she shall take advice from the Monitoring Officer prior to making a ruling. The Chairman’s decision in all cases shall be final.
Budget and Policy Framework Procedure Rules

(1) The Framework for Cabinet Decisions

The Council will be responsible for the approval or adoption of its Budget and of each plan and/or strategy comprised in the policy framework. Once a budget, plan or strategy is in place, it will be the responsibility of the Cabinet to implement it.

(2) Process for Developing the Framework

The process by which the budget and each plan and/or strategy comprised in the policy framework shall be developed is as follows:

(a) The Cabinet will prepare proposals for the budget, plan or strategy in hand in accordance with a timetable which has regard to the steps which will be required to be undertaken in relation to that budget, plan or strategy and the date by which it must have been approved or adopted in accordance with the law, ministerial direction, government guidance or other relevant requirement.

(b) In preparing the proposals the Cabinet will canvass the views of members of the public, local stakeholders and others as appropriate and in a manner suitable to the budget, plan or strategy under consideration. Any representations made to the Cabinet shall be taken into account in formulating the proposals, and shall be reflected in any report dealing with them. If the matter is one where a Scrutiny Committee has previously carried out a review of policy, then the outcome of that review will be taken into account in the preparation of the proposals.

(c) Before the Cabinet finalises its proposals for submission to the Council, the Performance Scrutiny Committee shall be invited to consider and advise the Cabinet on the formulation of the proposals. For this purpose the Proper Officer will place an appropriate item, with such draft proposals and other supporting information as may be available, on the agenda of the Performance Scrutiny Committee. The Scrutiny Committee may canvass the views of any person or persons, if it considers it appropriate to do so having regard to the need not to duplicate any consultation carried out by the Cabinet.

(d) The Proper Officer will ensure that the Scrutiny Committee is given the opportunity in time, and with sufficient information, to consider the item and report to the Cabinet on the outcome of its deliberations before the date specified in the Forward Plan on which the Cabinet expects to finalise its proposals for submission to the Council.
(e) The Cabinet shall take into account any recommendations from the Scrutiny Committee in finalising its proposals for submission to the Council for consideration. In submitting the proposals the Cabinet will report to the Council on how it has taken into account any recommendations from the Scrutiny Committee.

(f) Subject to paragraphs (g) to (o) below, the Council, having considered the proposals of the Cabinet, may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet’s proposals and any report from the Performance Scrutiny Committee.

Council objections to submitted plan or strategy

(g) Where the Council has any objections to a draft plan or strategy submitted to it by the Cabinet, before the Authority –

(i) amends the draft plan or strategy;

(ii) approves the plan or strategy for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval (whether or not in the form of a draft) if it is one of which any part is required to be so submitted; or

(iii) adopts the plan or strategy (with or without modification),

it must inform the Leader of the Council of those objections and must give to him/her instructions requiring the Cabinet to reconsider the draft plan or strategy, in the light of those objections.

(h) Where the Authority gives instructions in accordance with paragraph (g) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader may:

(i) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

(ii) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.

(i) When the period specified by the Council in accordance with paragraph (h) above has expired, the Council must, when –

(i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

(ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

(iii) adopting (with or without modification) the plan or strategy,

\[^1\text{Paragraphs (g) to (m) are prescribed by The Local Authorities (Standing Orders) (England) Regulations 2001}\]
take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet's reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified. The Council shall make its final decision on the basis of the majority of members present and voting at the meeting and the decision shall be effective immediately.

**Council objections to submitted budget proposals**

(j) Subject to paragraph (n) below, where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year -

   (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF and 52ZJ of the Local Government Finance Act 1992;

   (ii) estimates of other amounts to be used for the purposes of such a calculation;

   (iii) estimates of such a calculation; or

   (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992, and following consideration of those estimates or amounts the Council has any objections\(^1\) to them, it must take the action set out in paragraph (k) below.

(k) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (j)(i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of the Council of any objections which it has to the Cabinet's estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council’s requirements.

(l) Where the Authority gives instructions in accordance with paragraph (k) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader may:

   (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council’s requirements,

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\(^1\) ‘Objections’ under this section is to be taken as meaning that the objection is to the basis of the calculation and not to the budget proposals.
with the Cabinet’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or

(ii) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for such disagreement.

(m) When the period specified by the Council in accordance with paragraph (l) above has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (j)(i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -

(i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
(ii) the Cabinet’s reasons for those amendments;
(iii) any disagreement that the Cabinet has with any of the Council’s objections; and
(iv) the Cabinet’s reasons for that disagreement,

which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified. The Council shall make its final decision on the basis of the majority of members present and voting at the meeting and the decision shall be effective immediately.

(n) Where the Council intends to make a calculation of Council Tax for a financial year that exceeds the limit specified by the Secretary of State for the year in question (under Section 52ZC of the Local Government Finance Act 1992) then the Council must comply with the provisions set out in Chapter 4ZA¹ of the Local Government Finance Act 1992.

(o) In the foregoing paragraphs of this Rule “working day” means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning (and “bank holiday” means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971).

(3) **Budget Virements and In-Year Changes to the Policy Framework**

In approving a budget, plan or strategy, the Council will specify the extent of virement within the budget and degree of in-year changes to the plan or strategy which may be undertaken by the Cabinet. The virement rules are set out at Part 3.3 of this Constitution. Any other changes to the budget or policy
framework are reserved to the Council, other than any changes necessary to ensure compliance with the law, ministerial direction or government guidance. The Budget and Policy Framework is set out in Article 4 (The Full Council) of this Constitution.

(4) Decisions Outside the Budget or Policy Framework

(a) Subject to any permitted virement and in-year changes as mentioned in paragraph 3, any body or person discharging functions may only take decisions which are in line with the Budget and Policy Framework. Any decision, which is contrary to or not wholly in accordance with the Budget or Policy Framework as approved by the Council, may, subject to paragraph 5 below, only be taken by the Council.

(b) If any body or person discharging functions wishes to make a decision which may be contrary to or not wholly in accordance with the budget or policy framework as approved by the Council, they or s/he shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of those officers is that the decision would not be in accordance with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 shall apply.

(5) Urgent Decisions Outside the Budget or Policy Framework

(a) The Cabinet and any other body or person discharging executive functions may take a decision which is contrary to or not wholly in accordance with the budget or policy framework as approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:

(i) if it is not practical to convene a quorate meeting of the full Council; and

(ii) if consent has been given to the decision being taken as a matter of urgency by the Chairman and Deputy Chairman of Performance Scrutiny Committee (or by the Chairman and/or Vice-Chairman of the Council in the absence of one or both of them).

The reasons why it is not practical to convene a quorate meeting of full Council, and why consent was given to the decision being taken as a matter of urgency, must be noted on the record of the decision.

(b) Following the decision, the decision maker will make a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
(6) Call In of Decisions Outside the Budget or Policy Framework

(a) Where the Performance Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to or not wholly in accordance with the Budget or Policy Framework as approved by the Council, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

(b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer’s report and/or Chief Finance Officer’s report shall be sent 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 Monitoring Officer’s report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Performance Scrutiny Committee if the Monitoring Officer 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 Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to or not wholly in accordance with the budget or policy framework as approved by the Council, the Performance 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 a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:-

(i) endorse a decision or proposal of the decision maker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all councillors in the normal way; OR

(ii) amend the budget or policy framework to accommodate the decision or proposal of the body or person responsible for that function and agree the decision with immediate effect. In this case, no further action is required save that the decision of the Council shall 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 or not wholly in accordance with the budget or policy framework as approved by the Council, and does not amend the existing budget or policy framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.
Virement Rules 2018/19

Introduction

1. The Council’s budget is the financial expression of its plans and policies. The virement process allows budgets to be adjusted to reflect changes in those plans and policies throughout the financial year. The use of virements is intended to enable directorates to manage budgets with a degree of flexibility while at the same time ensuring that these remain consistent with the overall policy framework determined by Council.

2. Under the Constitution the Council is required to specify the extent of virement within the approved budget which may be undertaken by the Cabinet or delegated to officers. Any other changes to the budget are reserved to the Council, other than any changes necessary to ensure compliance with the law, ministerial direction or government guidance.

3. Virement for these purposes is taken to include:
   - the transfer of budget provision between budget heads as set out in the budget approved by Council in February 2018;
   - changes to gross income and gross expenditure;
   - transfer of funds from corporate reserves;
   - the transfer of funds from balances by way of a supplementary estimate.

4. Temporary virements only affect the current financial year. Permanent virements affect the current financial year and all future financial years.

Exceptions to the Virement Rules

Decisions Resulting in Virements

5. Where a decision by Council or Cabinet has already specified that temporary or permanent virements will result, no further approval is required. The virements should be first agreed and then actioned by the relevant budget holders and managers affected. If there are disagreements, an arbitration process will be led by the Director of Finance.

6. Similarly, organisational restructuring virements that do not change the service provision, only the location of the budget, do not require formal approval.

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1 The net effect of these changes is nil but the effect on expenditure and income is subject to approval as set out in these rules.
Changes to Grant Funding

7. Ringfenced grant funding has to be used for the specified purpose. Virements to update income and expenditure budgets to match the grant notification provided by the relevant body can be actioned without further approval. The change and the overall updated grant allocation will be noted in the Ringfenced Government Grants annex of the following Financial Monitoring Report to Cabinet.

8. This exception does not include un-ringfenced grant funding which is held corporately as part of Strategic Measures. Where additional un-ringfenced grant funding is notified during the year, approval to allocate additional expenditure budget is required as set out below.

Virements requiring Council approval

9. Council agree the budget for the forthcoming financial year in February each year. The approval of Council is required for any subsequent virement which:

(a) Is a permanent virement and involves a major change in policy; or
(b) Involves the one-off transfer of funds of £1m or more between revenue and capital budgets; or
(c) Is a temporary virement, involves a major change in policy and is for £1m or more; or
(d) Is a request to allocate expenditure budget of £1m or more funded by additional non-ringfenced grant funding notified during the year; or
(e) Where in the opinion of the Director of Finance a Council decision is required.

The Director of Finance must consider if virements involve a major change in policy.

10. These provisions are reviewed annually as part of the budget setting process.

Virements for which the Cabinet is responsible

11. Virements that are not the responsibility of the Council become the Cabinet’s responsibility. Cabinet must consider:

(a) Any permanent virement worth £500,000 or more that does not involve a major change in policy;
(b) Any temporary virement that involves:
   (i) A major change of policy and is worth £500,000 or more but less than £1m; or

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2 Each plan and/or strategy is agreed by Council and comprised in the policy framework. As set out in the Constitution Article 4, paragraph 2 and Part 3.2 of the Constitution.
Part 3.3  Virement Rules

(ii) No major change of policy and is worth £500,000 or more; or
(iii) A one-off transfer of funds between revenue and capital budgets and is worth £500,000 or more but less than £1m.

(c) Any requests to allocate expenditure budget of less than £1m funded by additional non-ringfenced grant funding notified during the year.

(d) Any delegated virements that the relevant Cabinet member has concerns about that have been referred to the Cabinet for approval or where in the opinion of the Director of Finance a Cabinet decision is required.

Virements delegated by the Cabinet

12. Cabinet delegates responsibility for the remaining permanent and temporary virements as follows:

Permanent virements
(a) Responsibility for agreeing permanent virements that do not involve a major change in policy and are worth less than £500,000 is delegated to the relevant Director and Director of Finance (or their nominated officer) subject to the approval of the relevant Cabinet member as part of the monthly financial monitoring process.

Temporary virements
(b) Responsibility for agreeing temporary virements worth less than £500,000 but greater than or equal to £250,000, including transfer of funds between revenue and capital budgets, is delegated to the relevant Director and Director of Finance (or their nominated officer) subject to the approval of the relevant Cabinet member.

(c) The relevant Director may delegate the approval of temporary virements worth less than £250,000 to other officers within their directorate.

13. Any delegated virements that the relevant Cabinet member or Director of Finance have concerns about must be referred to the Cabinet for approval.

Financial Monitoring

14. As part of financial monitoring procedures directorates should be forecasting the full year outturn position. Where action to address potential overspends does not reduce the forecast overspend, temporary virements should be made from underspendings elsewhere.

15. When virements are reported they will be assumed to be temporary virements unless it is specifically stated that they are permanent virements.
Cumulative virements

16. Successive virements to or from the same budget will produce a cumulative effect. If the cumulative effect to or from a budget head approved by Council would require approval at a higher level – for example by Council instead of the Cabinet, the cumulative virement should be reported and approval obtained for the virement that triggers the requirement for cumulative approval, in accordance with the requirements set out above. The overall effect on the relevant budget head must be noted as part of the request.

17. Once the higher level of approval has been obtained for a cumulative virement the cumulative total is reset to zero. This means that any subsequent virement is a separate request that should be treated as set out above. Cumulative virements are reset to zero at the end of each financial year.

Director of Finance Powers

18. If Directors do not make virements in accordance with these Virement Rules the Director of Finance has the power to make other virements to remedy the position.
“Local Choice” Functions

1. Distribution of Functions

The functions specified in the table below which, under Regulation 3(1) and Schedule 2 of the relevant Functions Regulations*, may be discharged either by the Cabinet or by the authority (or a committee or sub-committee of the authority), are to be discharged by the body specified in the right hand column of the table.

<table>
<thead>
<tr>
<th>Function</th>
<th>Body Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools; arrangements pursuant to sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals); and arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies: appeals by governing bodies).</td>
<td>The Cabinet</td>
</tr>
<tr>
<td>(b) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.</td>
<td>Planning &amp; Regulation Committee</td>
</tr>
<tr>
<td>(c) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</td>
<td>Planning &amp; Regulation Committee or the Cabinet (according to responsibility for the substantive matter in hand)</td>
</tr>
<tr>
<td>(d) The making of agreements for the execution of highways works.</td>
<td>Planning &amp; Regulation Committee</td>
</tr>
<tr>
<td>(e) The appointment of any individual -</td>
<td>Remuneration Committee, or the Cabinet in the case of any office or body identified by them as strategic, and noted as such on a list of all relevant offices and bodies from time to time presented to and endorsed by the Council</td>
</tr>
<tr>
<td>(a) to any office other than an office in which he is employed by the authority;</td>
<td></td>
</tr>
<tr>
<td>(b) to any body other than -</td>
<td></td>
</tr>
<tr>
<td>(i) the authority;</td>
<td></td>
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<tr>
<td>(ii) a joint committee of two or more authorities; or</td>
<td></td>
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<tr>
<td>(c) to any committee or sub-committee of such a body;</td>
<td></td>
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<tr>
<td>and the revocation of any such appointment.</td>
<td></td>
</tr>
</tbody>
</table>

* The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended
| (f) | The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities. | Remuneration Committee or the Cabinet (according to responsibility for the substantive matter in hand) |
| (g) | Oxfordshire Act 1985: functions in relation to highways etc under Sections 6, 8, 10 and 23. | The Cabinet |
| (h) | Oxfordshire Act 1985: agreements with developers under section 4; regulatory functions in relation to highways under Sections 9, 11 and 12. | Planning & Regulation Committee |
| (i) | Oxfordshire Act 1985: functions in relation to the county superannuation fund under section 21 | Pension Fund Committee |
| (j) | The determination of an appeal against any decision made by or on behalf of the authority. | Audit & Governance Committee |
Membership of Cabinet and Shadow Cabinet

LEADER OF THE COUNCIL : Ian Hudspeth
DEPUTY LEADER OF THE COUNCIL : Mrs Judith Heathcoat

The Cabinet (7)

In addition to the Leader and Deputy Leader of the Council, 8 Cabinet Members as follows:-

Adult Social Care & Public Health : Lawrie Stratford
Cherwell Partnership : Ian Corkin
Children & Family Services : Steve Harrod
Education & Cultural Services : Lorraine Lindsay-Gale
Environment : Yvonne Constance
Finance : David Bartholomew
Local Communities : Mark Gray
Transformation : Eddie Reeves

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The Opposition

LEADER OF THE OPPOSITION : Liz Brighouse
DEPUTY LEADER OF THE OPPOSITION : Laura Price

The Shadow Cabinet (9)
The following members currently comprise the Shadow Cabinet appointed by the Opposition for the purposes of paragraph 3 of the Protocol on Members’ Rights and Responsibilities (Part 9.3 of the Constitution)

Cabinet Member Portfolio

Leader and Cherwell Partnership : Liz Brighouse
Deputy Leader : Laura Price
Adult Social Care & Public Health : Sobia Afridi
Children Services : Gill Sanders
Education & Cultural Services : Emma Turnbull
Environment and Economy : John Sanders
Finance : Glynis Phillips
Local Communities : Debbie MacIlveen
Public Health : Damian Haywood
Transformation : Mark Lygo
Part 4.2 Cabinet Procedure Rules

Cabinet Procedure Rules

1. How The Cabinet Operates

1.1 Power to make Cabinet decisions

The Leader of the Council may arrange for executive functions to be discharged by:

(i) the Cabinet as a whole;
(ii) a committee of the Cabinet;
(iii) an individual member of the Cabinet;
(iv) an officer of the Council;
(v) joint arrangements with one or more other local authorities;
(vi) another local authority.

1.2 Delegation by the Leader

1.2.1 At the annual meeting of the Council, the Leader of the Council will present to the Council a written record of delegations made by her/him for inclusion, as appropriate, in the Council’s scheme of delegations at Part 7 of this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

(a) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
(b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
(c) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of the Cabinet Members appointed to them;
(d) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
(e) 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.

1.2.2 The Leader of the Council may at any time during the year amend the scheme of delegation relating to Cabinet functions, for instance to remove a Cabinet Member, appoint a Cabinet Member (subject to the legal maximum of Leader and 9 other Cabinet Members), make changes to the portfolio of any Cabinet Member, or create or wind-up a Cabinet committee but in doing so s/he must give written notice in writing or by e-mail to the Proper Officer and to the person, body or
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 or committee or the Cabinet as a whole.

1.2.3 Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on the committee when s/he has given it to the committee chairman.

1.2.4 The amendment to the scheme of delegation will take effect two clear working days after receipt of notice by the Proper Officer. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

1.3 Sub-delegation of Cabinet 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 an area committee, joint arrangements or an officer.

(b) Unless the Council directs otherwise, if the Leader of the Council 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 of the Council directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

(d) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body which delegated them.

(e) Where executive functions have been delegated, the body or person to whom they are delegated can decline to discharge some or all of those functions, in which case they will be exercised by the person or body which delegated them.

1.4 Conflicts of Interest

Where the Leader of the Council or any individual Cabinet Member or Members has a conflict of interest in relation to any matter this should be dealt with as set out in the Council’s Code of Conduct for Members in Part 9 of this Constitution.

If the exercise of an executive function has been delegated to an individual member or a committee of the Cabinet, or an officer, and should a conflict of interest arise, then the function may be exercised by the Cabinet collectively (those Cabinet Members who have an interest will not participate) and otherwise as set out in the Council’s Code of Conduct for Members.
1.5 Meetings of the Cabinet

The Cabinet will meet generally once a month, and/or at such other times as may be agreed by the Leader of the Council. The Cabinet shall meet at the Council’s main offices or another location to be agreed by the Leader of the Council.

1.6 Public Access to Meetings of the Cabinet

Members of the public shall be entitled to attend meetings of the Cabinet in accordance with the Council’s Access to Information Rules. In addition to those attendance rights the provisions of the Council Procedure Rules enabling members of the public to present petitions at meetings and to request the opportunity to address meetings on items on the agenda shall apply to meetings of the Cabinet.

1.7 Quorum

The quorum for any meeting of the Cabinet will be 5 members.

1.8 How Decisions are to be Taken by the Cabinet

(a) Executive decisions will only be taken by the Cabinet as a whole at any meeting which is quorate and has been convened in accordance with the Access to Information Rules approved as part of the Constitution.

(b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

2. How Meetings are Conducted

2.1 Who presides?

If the Leader of the Council is present s/he will preside. In her/his absence, then the Deputy Leader will preside. In the absence of both, the Cabinet will choose another Cabinet Member to preside.

2.2 Who may attend?

Any member of the Council shall be entitled to attend and observe any meeting of the Cabinet, subject to the provisions in section 7(d) of the Protocol on Members’ Rights and Responsibilities at Part 9.2 of this Constitution (in relation to any part of a meeting from which the public has been excluded).
2.3 Business

At each meeting of the Cabinet the following business will, as appropriate, be included on the agenda for the meeting:

(i) declarations of interest, if any;
(ii) confirmation of the minutes of the last meeting;
(iii) receive questions with notice from, and provide answers to, members of the Council (see 3 below);
(iv) any matters referred to the Cabinet in accordance with the provisions contained in the Budget and Policy Framework Procedure Rules or the Overview and Scrutiny Procedure Rules as set out at Parts 3.2 and 6.2 respectively of this Constitution;
(v) any reports from Scrutiny Committees (including reports or recommendations from other authorities or co-operating persons or bodies);
(vi) any reports from a Cabinet Advisory Group;
(vii) matters set out in the agenda with an indication of which, if any, involve key decisions in accordance with the Access to Information Rules set out at Part 8.1 of this Constitution;
(viii) updating of the Forward Plan and proposals for business to be conducted at the following meeting; and,
(ix) any item which, by reason of special circumstances which shall be specified in the minutes, the Chairman agrees should be considered at the meeting as a matter of urgency¹

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating directly to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and others and with the relevant 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 Putting Items on the Cabinet Agenda

(a) Any member of the Cabinet may request the Proper Officer that an item be placed before the Cabinet. The Proper Officer will arrange for the Cabinet to consider in the context of the Forward Plan what arrangements to make for consideration of that item.

¹ Regulation 16 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended)
(b) Any member of the Council may make a request through a member of the Cabinet that an item be placed before the Cabinet. If the Cabinet Member endorses the request and so notifies the Proper Officer, that Officer will arrange for the Cabinet to consider in the context of the Forward Plan what arrangements to make for consideration of that item. When any such item is considered by the Cabinet the agenda for the meeting will give the name of the Councillor who asked for the item to be considered. The individual member shall be invited to attend and speak at the meeting during consideration by the Cabinet of that item.

(c) The Proper Officer will ensure that an item is placed on the agenda of the Cabinet where a relevant Scrutiny Committee or the Council have resolved that an item shall be considered by the Cabinet in accordance with the Budget and Policy Framework Procedure Rules or the Scrutiny Procedure Rules.

(d) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a meeting of the Cabinet 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 Head of Paid Service, 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 a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the Leader of the Council may require that a meeting be convened at which the matter will be considered.

(e) The Proper Officer will ensure that an item is placed as appropriate on the agenda of Cabinet as a result of a motion at full Council.

3. QUESTIONS BY MEMBERS OF THE COUNCIL

3.1 General

A member of the Council may ask the Leader of the Council or any other appropriate member of the Cabinet a question upon any matter in respect of the Cabinet’s delegated powers.

3.2 Order of Questions

Subject to the maximum time allowed for councillors' questions with notice at any one meeting being 30 minutes, questions will be asked in the order notice of them was received by the Proper Officer, except that the Chairman may group together similar questions.
3.3 **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 Proper Officer no later than 9 am on the second working day before the meeting. Each question must give the name of the questioner and must name the member of the Cabinet to whom it is to be put.

3.4 **Number of Questions**

Except as set out below the number of questions which may be asked by any councillor at any one meeting is limited to two questions with notice (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total.

The Chairman may exercise his discretion around the number of questions, including multi-part questions a councillor may ask, where (taken together) these would not, in the Chairman’s view, take up the whole of the allotted time or otherwise prejudice any other constitutional rights.

3.5 **Scope of Questions**

The Proper Officer may reject a question if it:

- is not about a matter for which the Cabinet has a responsibility;
- is defamatory, frivolous or offensive; or
- is substantially the same as a question which has been put at a meeting of the Cabinet in the past six months.

If answering a question would require the disclosure of confidential or exempt information, then the Proper Officer shall reply in writing in a confidential manner.

3.6 **Record of Questions**

3.6.1 Questions submitted prior to the agenda being despatched will be shown on the agenda and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member.

3.6.2 Where possible, the Cabinet Member will give her/his reply to the Proper Officer by 12.00 pm on the day of the meeting for inclusion in the Schedule of Addenda to be circulated at the meeting; otherwise, the Cabinet Member shall give a verbal reply at the meeting and, if necessary, a further written response after the meeting.
3.6.3 Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda, together with any written response which is available at that time.

3.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Cabinet Member named in the notice. If a questioner who has submitted a written question is unable to be present, the Cabinet Member’s written response will constitute the formal reply on behalf of the Cabinet.

3.8 Supplementary Question

3.8.1 The Chairman of the meeting will ask the questioner if s/he wishes to ask one supplementary question without notice to the Cabinet Member of whom the first question was asked, subject to Rule 3.4 above.

3.8.2 A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 3.5 above.

3.9 Response to Supplementary Question

An answer may take the form of:

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

4. Right for members to speak


4.2 The above rights to address meetings are subject to the Chairman’s discretion in determining who shall speak, the length of speeches and the order in which they shall be taken.
Cabinet Committees

(1) **Proceedings of Committees**

Any Committee of the Cabinet shall be subject to:

(a) the Council’s and the Cabinet’s policies, budget and programme;

(b) the Access to Information Procedure Rules as they apply to the Cabinet (or, in the case of Rules 13-24, as applied by Rule 12.1);

(c) the provisions of the Council Procedure Rules enabling members of the public to present petitions at meetings and to request the opportunity to address meetings on items on the agenda;

(d) the provisions of Rule 3 of the Cabinet Procedure Rules (Questions by Members of the Council) as far as is practicable;

(e) the provisions of the Protocol on Members’ Rights and Responsibilities to the extent specified in that Protocol; and

(f) the procedure for inclusion of items in the agenda for its meetings set out in paragraph 8(d) of the Protocol on Members’ Rights as if it was a Council Committee.

(2) **Individual Committees**

(a) Any such Cabinet Committee shall subject to (c) below comprise such of the Cabinet Members as the Cabinet shall determine.

(b) The Leader of the Council and Deputy Leader of the Council shall have the right to attend and speak at meetings of the Committee.

(c) In the absence of any or all the members referred to in (a) above any Cabinet Member(s) nominated by the Leader of the Council or the Deputy Leader of the Council may act in their place as full voting members of the Committee.

(d) The Committee will meet at such times as shall be agreed by its members. Any member of the Council shall be entitled to attend and observe any meeting of the Committee.

(e) The Committee shall not be quorate unless two voting members are present.

(f) The Committee shall appoint one of its members to act as its Chairman, but that member shall not be entitled to cast a second or casting vote.

(g) There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Cabinet for determination.

(h) Without prejudice to the provisions of the Protocol on Members’ Rights and Responsibilities the local member for each division directly affected by a matter to be considered by the Committee shall be entitled to receive notification of that matter to enable her/him to make her/his views known to the Committee.
Delegated Decisions by Individual Cabinet Members

(1) Standing Delegation

Each member of the Cabinet has a general authority to take decisions within her/his given portfolio, except in the following cases (which will fall to the full Cabinet):

(a) formulation of recommendations to Council on the Budget and Policy Framework;
(b) material departures from established policies, budget and programme;
(c) decisions with major implications for more than one portfolio;
(d) any matters which the portfolio holder wishes to remit to the full Cabinet;
(e) any matters in which the portfolio holder has a prejudicial interest;
(f) the regular financial, establishment and performance monitoring reports;
(g) reports from scrutiny committees on the outcome of full scrutiny reviews;
(h) recommendations from scrutiny committees following call-in of earlier decisions; and
(i) any other matters at the request of any other member of the Cabinet.

In the event of a difference of view arising on what constitutes a “material departure” or “major implication”, the Leader of the Council will, if the question cannot be resolved by other means, determine whether or not reference should be made to the full Cabinet, taking account of the advice of the County Director.

(2) Proceedings

(a) Any decision by a member of the Cabinet shall be subject to:

(i) the Council's and the Cabinet's policies, budget and programme;
(ii) the Access to Information Procedure Rules as they apply to the Cabinet (or, in the case of Rules 13-24, as applied by Rule 12.1);
(iii) the provisions of the Council Procedure Rules enabling members of the public to present petitions at meetings and to request the opportunity to address meetings on items on the agenda;
(iv) the provisions of Rule 3 of the Cabinet Procedure Rules (Questions by Members of the Council) as far as is practicable; and
(v) the provisions of the Protocol on Members' Rights to the extent specified in that Protocol.
(b) Should a Cabinet Member not be able to be present to take decisions within her/his portfolio for which an agenda has already been published, the Leader or the Deputy Leader (or an alternative member of the Cabinet nominated by the Leader) shall be permitted to attend in her/his place. If, however, neither the Leader nor the Deputy Leader (nor any alternative Cabinet Member nominated by the Leader) can be present, the decision shall be made by the Cabinet at its next scheduled meeting unless the original Cabinet Member can be present to take a decision on a date which is before the next meeting of the Cabinet.
Cabinet Advisory Groups

1. Introduction

The Cabinet, or individual Cabinet Members following notification to the Director of Law & Governance may appoint Cabinet Advisory Groups. It is intended that no more than five such Advisory Groups will be appointed at any one time unless particular circumstances necessitate the appointment of additional Groups.

Cabinet Advisory Groups are not formal meetings of the Council and do not have the status of advisory committees under the Local Government Act 1972 Section 102(4).

Cabinet Advisory Groups will assist the Cabinet by focusing on Cabinet-identified priorities linked to the Corporate Plan. They will have the following common terms of reference although their specific remit will be determined by the appointing body/member.

2. Terms of reference:

(i) will explore key policy issues selected by Cabinet and which align to corporate priorities and will make recommendations upon them to Cabinet and/or to the appropriate Cabinet Member;

(ii) may conduct research, community and other consultation in the analysis of policy and possible options;

(iii) may liaise with other organisations operating in the area, whether national, regional or local, to ensure that policy recommendations are thus enhanced to reflect the interests of local people;

(iv) will operate as task and finish groups;

(v) will be chaired by the relevant Cabinet Member as part of their portfolio responsibility or by a nominated vice-chairman in his/her absence;

(vi) will have a membership of approximately 7 members including the chairman appointed to it although the precise number may vary according to the issue under consideration;

(vii) will follow the rules of political proportionality following receipt of nominations from group leaders having regard to:

(a) A member’s interest in the topic in question;
(b) Geographical representation – that is, membership from across Oxfordshire;
(c) Cross party – reflecting the balance of the political parties within the Council as a while;
(viii) will have quorum of three members one of which should be the Cabinet Member chairing it or its vice-chairman;

(ix) notwithstanding that the Groups are not formal committees of the Cabinet or Council, there will be a presumption that meetings will take place in public; nevertheless there may be occasions when the Groups may not wish to meet in public having regard to the issues being considered and the exploration of all available options;

(x) will in any case report formally to the Cabinet and/or to the appropriate Cabinet Member;

(xi) will meet on the dates and at the times and places determined by the chairman of the Group which shall be set as far as possible in advance and notified to members of the Group and if appropriate to the public;

(xii) will operate such that agendas and reports are sent to members of the Groups at least five clear days in advance of each meeting and that any public meetings are published as if the access to information rules applied;

(xiii) may give consideration to any petitions received by the Council which may be of relevance to the topic area under consideration;

(xiv) will determine their final recommendations to Cabinet and/or the appropriate Cabinet Member by consensus if at all possible or by means of a show of hands if necessary.
Transport Advisory Panel

1. Transport Advisory Panel

The Cabinet will appoint a Transport Advisory Panel to support the Cabinet Member for transport with his/her decision-making. The Transport Advisory Panel is not a formal meeting of the Council or Cabinet and does not have the status of an advisory committee under the Local Government Act 1972 Section 102(4). The Transport Advisory Panel will have the following terms of reference.

2. Purpose

The Panel will advise the Cabinet member on transport policy developments and will ensure that policies are developed with the needs of Oxfordshire’s diverse communities in mind.

3. Terms of reference

(i) will meet at least six times a year;

(ii) will be chaired by the relevant Cabinet Portfolio holder or by the nominated vice-chairman in his/her absence;

(iii) will follow the rules of political proportionality;

(iv) will have a membership of 12 members nominated by group leaders and having regard to the aim to create a geographical spread bearing in mind the Council’s designated localities;

(v) will have quorum of four members one of whom should be the Cabinet Member chairing it or its vice-chairman;

(vi) notwithstanding that the Panel is not a formal committee of the Cabinet or the Council, there will be a presumption that its meetings will take place in public; nevertheless there may be occasions when the Panel may wish to meet in private having regard to the issues being considered and the exploration of all available options;

(vii) notification of public right to raise will meet on the dates and at the times and places determined by the chairman of the Group which shall be set as far as possible in advance and notified to members of the Group;

(viii) will operate such that agendas and reports are sent to members of the Panel at least five clear days in advance of each meeting and that any public meetings are published as if the access to information rules applied;
(ix) may give consideration to any petitions received by the Council which may be of relevance to the topic area under consideration;

(x) will determine their final recommendations to Cabinet and/or the appropriate Cabinet Member by consensus if at all possible or by means of a show of hands if necessary.
Membership of Committees and Sub-Committees

Audit & Governance Committee (10)

<table>
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<tr>
<th>Conservative Independent Alliance (5)</th>
<th>Independent (0)</th>
<th>Labour (2)</th>
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Non-Voting Co-opted Members (3)

Representative of the Business Community:
Dr Geoff Jones, PO Box 636, Oxford OX1 9AZ

Independent Members (Complaints handling) (2)
Dr Sadie Reynolds c/o County Hall, New Road, Oxford OX1 1ND
1 vacancy

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Appeals & Tribunals Sub-Committee* (3)

Three Councillors one of whom must be a Member of the Audit & Governance Committee (*when hearing home to school transport appeals, the Sub-Committee consists of an elected member, an officer and an independent person)

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

Appointment Sub-Committee (Variable) (6)

Six Councillors at least one of whom must be a member of the Cabinet

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

Fire Service Discipline Sub-Committee (3)

Three Councillors at least one of whom must be a member of the Cabinet

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

ch - Chairman
dc - Deputy Chairman
sp - Opposition Group Spokesman
Oxfordshire Health & Wellbeing Board (14)

Comprising:
- Leader of the County Council – Chairman
- Clinical Chair of Oxfordshire Clinical Commissioning Group – Vice-Chair
- 2 District/City Council representatives
- Cabinet Members of the County Council with responsibility for Adult Social Care, Children & Family Services and Public Health
- Accountable Officer Oxfordshire Clinical Commissioning Group
- Chief Executive Oxford University Hospitals NHS Foundation Trust
- Chief Executive Health NHS Foundation Trust
- Chief Executive Oxfordshire County Council
- A Healthwatch representative
- The Director of Children’s Services
- The Director of Adult Social Care
- The Director of Public Health
- An NHS England representative
- 1 Clinical General Practitioner provider representative from Oxfordshire’s General Practice Federation

Pension Fund Committee (11)

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<th>Conservative</th>
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Voting Co-opted Members (2)

District Council Representatives:
- District Councillor Alaa Al-Yousuf, Bridleway End, The Green, Freeland, Oxon OX29 8AP
- District Councillor Bill Service, 15 Nunney Brook, Didcot, Oxon OX11 7FW

ch - Chairman
dc - Deputy Chairman
sp - Opposition Group Spokesman
### Planning & Regulation Committee (13)

<table>
<thead>
<tr>
<th>Conservative</th>
<th>Independent (1)</th>
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<td>Alliance (7)</td>
<td>Fitzgerald-O'Connor</td>
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<td>Fox-Davies</td>
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### Remuneration Committee (7)

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<td>sp Brighouse</td>
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### Pension Benefits Sub-Committee (3)

Three Councillors at least one of whom must be a member of the Remuneration Committee
Joint Committees

Oxfordshire Joint Health Overview & Scrutiny Committee (15)

<table>
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<td>Fatemian</td>
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District Council Representatives (5):
- District Councillor Nigel Champken-Wood, 27 Ludsden Grove, Thame, Oxon OX9 3BY
- District Councillor Monica Lovatt, 1 Curtyn Close, Abingdon, Oxon OX14 1SE
- District Council Sean Gaul, 11 Sharpes Cottages, Station Road, Launton OX26 5BU
- City Councillor Susanna Pressel, 7 Rawlinson Road, Oxford OX2 6UE
- District Councillor Neil Owen, Robinswood, Frog Lane, Milton under Wychwood Oxon OX7 6JZ

Non-Voting Co-opted Members (3)
- Dr Keith Ruddle, Hill Lawn House, 22 New Street, Chipping Norton, Oxon OX7 5LJ
- Mrs A. Wilkinson, Carrig House, 3 Pullensfield, Headington, Oxon OX3 0BU
- Dr Alan Cohen, 62 Foundry House, Walton Well Road, Oxford OX2 6AQ

Joint Horton Health Overview & Scrutiny Committee (10)

Councillor Arash Fatemian – representing Oxfordshire County Council (Chairman)
Councillor Fiona Baker – representing Northamptonshire County Council (Deputy Chairman)

Representing Oxfordshire County Council
- District Councillor Sean Gaul
- Councillor Kieron Mallon
- District Councillor Neil Owen
- District Councillor Barry Richards
- Councillor Alison Rooke
- District Councillor Sean Woodcock

Representing Warwickshire County Council
- Councillor Wallace Redford

Non-Voting Co-opted Member
- Dr Keith Ruddle
South East Fire and Rescue Services Regional Management Board (1)
(Deputy Leader)

Heathcoat

********************

Parking and Traffic Regulations Outside London
Adjudication Committee (1)
(Cabinet Member for Environment)

Constance

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Thames Valley Police & Crime Panel (1)

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<th>Labour (0)</th>
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Oxfordshire Growth Board (OGB) Scrutiny Panel (3)

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<td>John Sanders</td>
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<td>Emily Smith</td>
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OGB JSSP Sub Group (1):
OGB Infrastructure Sub-Group (1): Constance
OGB Housing Sub-Group (1):
County Council Representatives on Staff Consultative Bodies

Oxfordshire County Council Joint Consultative Committee for Uniformed Members of the Fire Service (7)

Conservative: Independent (0)  Labour (2)  Liberal Democrat (1)

Independent: Alliance (4)

Bartington
Griffiths
Handley
Heathcoat

Lygo
* Patrick
Pressel

Oxfordshire County Council & Teachers' Joint Committee (5)

Conservative: Independent (0)  Labour (1)  Liberal Democrat (1)

Independent: Alliance (3)

Fenton
Thompson
Waine

* Pressel
* Howson

Oxfordshire County Council & Employees Joint Consultative Committee (7)

Conservative: Independent (0)  Labour (2)  Liberal Democrat (1)

Independent: Alliance (4)

Bartholomew
Handley
Heathcoat
Reeves

Begum Azad
* Webber
Price

* - Group Spokesman
Membership of Scrutiny Committees

Education Scrutiny Committee (9)

Conservative
Independent
Alliance (4)

Fenton
Fitzgerald-O'Connor
Matelot

Independent (0)

Gill Sanders
dc Howson

Labour (2)

Turnbull

Liberal Democrat (1)

Waine

Voting Co-optees (1 currently + 3 vacancies)

Representing the Church of England: Vacancy

Representing the Roman Catholic Church: Vacancy

Parent Governor Representatives:

Primary: Vacancy

Secondary and Special: Vacancy

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Performance Scrutiny Committee (11)

Conservative
Independent
Alliance (6)

Carter
Fox-Davies
Ilott
Mathews
Waine
Walker

Independent (0)

ch Brighouse

Labour (2)

Phillips
dc Hannaby

Liberal Democrat (3)

Leffman

Roberts

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ch - Chairman
dc - Deputy Chairman
sp - Opposition Group Spokesman
Joint Committees

Oxfordshire Joint Health Overview & Scrutiny Committee (15)

<table>
<thead>
<tr>
<th>Conservative</th>
<th>Independent Alliance (4)</th>
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<td>Fox-Davies</td>
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- Dr Alan Cohen, 62 Foundry House, Walton Well Road, Oxford OX2 6AQ

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Joint Horton Health Overview & Scrutiny Committee (10)

Councillor Arash Fatemian – representing Oxfordshire County Council (Chairman)
Councillor Fiona Baker – representing Northamptonshire County Council (Deputy Chairman)

Representing Oxfordshire County Council
- District Councillor Sean Gaul
- Councillor Kieron Mallon
- District Councillor Neil Owen
- District Councillor Barry Richards
- Councillor Alison Rooke
- District Councillor Sean Woodcock

Representing Warwickshire County Council
Councillor Wallace Redford

Non-Voting Co-opted Member
Dr Keith Ruddle

ch - Chairman
dc - Deputy Chairman
sp - Opposition Group Spokesman
Overview and Scrutiny Procedure Rules

(1) Except where set out below the convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by the Council.

(2) Membership of Scrutiny Committees

The Council’s Overview and Scrutiny Committees will have the membership indicated in Article 7 of this Constitution. All councillors except members of the Cabinet may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision in which s/he has been directly involved.

(3) Co-opted Members

Education Scrutiny Committee

(a) In addition to councillors, the Education Scrutiny Committee shall include in its membership the following voting representatives:

(i) one Church of England representative appointed by the Oxford Diocesan Council of Education;
(ii) one Roman Catholic representative appointed jointly by the Archbishop of Birmingham and the Bishop of Portsmouth to represent the Roman Catholic Church;
(iii) two persons who shall be parent governors of maintained schools elected in accordance with a procedure approved by the Council.

(b) These co-opted members are only able to exercise their vote when the Education Scrutiny Committee is dealing with education functions which are the responsibility of the Council or the Cabinet. When the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak. Co-opted members shall be able to exercise their vote on questions relating to the work programme including how such work is to be conducted.

Performance Scrutiny Committee

(c) The Performance Scrutiny Committee (in its capacity as the ‘Crime and Disorder Committee’ required in accordance with Section 19 of the Police and Justice Act 2006) may include in its membership representatives from those persons and bodies who are responsible authorities within the meaning of section 5 of the Crime and Disorder Act 1998, and from those persons and bodies with whom the responsible authorities have a duty to co-operate under section 5(2) of that Act (the “co-operating persons and bodies”).
(d) A co-opted person’s membership may be limited to the exercise of the committee’s powers in relation to a particular matter or type of matter. These co-opted members1 may be voting members, but only if the committee allows it, and are only able to exercise their vote when the Performance Scrutiny Committee is dealing with matters in connection with the discharge by the responsible authorities of their crime and disorder functions. When the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

(e) The membership of a person co-opted to serve on the Scrutiny Committee may be withdrawn at any time by the committee.

(4) **Review Panels**

Scrutiny Committees may appoint such Review Panels as they may determine to undertake specified reviews. Appointments to such Review Panels will be made by the relevant scrutiny committee, ensuring political balance as far as possible. Such panels will exist for a fixed period, on the expiry of which they shall cease to exist.

(5) **Work Programme**

The Scrutiny Committees will be responsible for setting their own work programme and in doing so they will take into account the views of the co-opted members.

(6) **Co-ordination of Scrutiny Committees**

Where matters fall within the remit of more than one Scrutiny Committee or Review Panel the Chairmen of the relevant Scrutiny Committees shall determine which of them will assume responsibility for any particular issue

Where there is doubt about which is the relevant Scrutiny Committee to receive requests from the Cabinet and/or the Council for reports, the Chairmen of the Scrutiny Committees shall allocate such requests to one or more of the Scrutiny Committees.

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1 In accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009, a crime and disorder committee shall only co-opt a person to serve on the committee who (a) is an employee, officer or member of a responsible authority or of a co-operating person or body; and (b) is not a member of the executive of the committee’s local authority (or authorities).
(7) Meetings of the Scrutiny Committees

(a) Each Scrutiny Committee will meet at least four times a year. In addition, other meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chairman of the Committee following consultation with the Deputy Chairman, by any 5 members of the committee or by the Proper Officer if s/he considers it necessary or appropriate.

(b) The Performance Scrutiny Committee shall meet at least once in every twelve month period as the ‘crime and disorder committee’ to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions.

(8) Chairmen and Deputy Chairmen

The positions of Chairmen and Deputy Chairmen of the Scrutiny Committees will be drawn from among the councillor members sitting on the respective committees. A Committee will normally appoint to these positions on an annual basis. Scrutiny Review Panels will appoint one of their members as Chairman for the life of the Panel.

(9) Quorum

The quorum for a Scrutiny Committee will be one quarter of the whole number of voting members, of whom a majority are members of the Council). During any meeting, if the Chairman 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 Chairman. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

(10) Agenda Items

(a) Any member of a Scrutiny Committee shall be entitled to give notice to the Proper Officer that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for that Committee.

(b) Any member of the Council shall be entitled to give notice, under the Procedure for a Councillor Call for Action set out in Annex 1 to the Protocol on Members' Rights and Responsibilities, to the Proper Officer that s/he wishes an item concerning her/his Electoral Division and which is relevant to the functions of the Committee to be included on the agenda for that Committee. If the Proper Officer receives the request at least 15 working days before a scheduled meeting of that Committee s/he will include it on the agenda for that meeting; otherwise

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2 Regulation 4 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009
it will be placed on the agenda for the following meeting of that Committee. The member shall have a right to speak at the meeting during consideration of that item.

(c) The leader of any political group on the Council may request the Chairman and Deputy Chairman of a Scrutiny Committee to include an item relevant to the functions of the Committee on the agenda of that Committee. If the Chairman and Deputy Chairman so agree, they shall request the proper officer to include such item on the agenda of that Committee.

(d) Any 10 members of the Council who are not members of the Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the relevant Scrutiny Committee.

(e) The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Cabinet and/or the Council to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Cabinet and/or the Council shall consider the report of the Scrutiny Committee within two months of receiving it.

(f) In relation to (a), (c) and (d) above the Proper Officer to include an item on an agenda for a Scrutiny Committee provided that:

(i) notice of the request is received by the Proper Officer by 2.00 p.m. on the tenth working day before the meeting of a committee;

(ii) the subject matter of any such notified item is relevant to the powers/functions of the committee; and

(iii) the item will normally be for oral report unless 20 working days’ prior notice is given to enable a report to be prepared.

The individual member(s) shall be invited to attend and speak at the meeting during consideration by the committee or sub-committee of that item.

(11) Policy Review and Development

(a) The role of the 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 budget and policy framework, the Scrutiny Committees may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference.
(c) Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

(12) Reports from Scrutiny Committees

(a) Once a Scrutiny Committee has completed its deliberations on any matter a formal report may be prepared on behalf of the Committee and when agreed by them the Proper Officer will normally refer it to the Cabinet for consideration. Where the report concerns functions which are the responsibility of the Council or where the recommendations of the report have significant implications for the Council’s budget and policy framework, the report will be referred to the Council. Where any report of a Scrutiny Committee relates to a Councillor Call for Action a copy of the report will also be provided to the relevant member.

(b) Where the Proper Officer refers the Scrutiny Committee’s report to the Cabinet, it will be included on the agenda of the Cabinet as soon as practicable and normally within a period of 6 weeks from the date the report was adopted by the Scrutiny Committee. If for any reason the Cabinet does not consider the Scrutiny Committee’s report within 12 weeks then the matter will be referred to Council for review.

(c) Where in (a) above, the Proper Officer refers a Scrutiny Committee’s report to the Council, s/he will also give a copy to the Leader of the Council with notice that the matter is to be referred to Council. The Cabinet will have 6 weeks in which to respond to a Scrutiny Committee’s report, and the Council shall not consider it within that period.

(d) When the Council considers any referral from a Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall at the same time also consider the response of the Cabinet to the Scrutiny Committee’s proposals.

(e) If a Scrutiny Committee cannot agree on one single final report to the Cabinet or the Council as appropriate, then one minority report may be prepared and submitted for consideration by the Cabinet or the Council with the majority report.

(f) Where Cabinet considers a report of a Scrutiny Committee the Proper Officer will include Cabinet’s response on an appropriate agenda of the Scrutiny Committee.
(13) Rights of Scrutiny Committee Members to Information

Nothing in any specific rights of members of Scrutiny Committees to documents or to notices of meetings, whether set out in the Access to Information Procedure Rules of the Constitution or otherwise, shall prevent more detailed information being sought by a Scrutiny Committee and provided by the Cabinet as appropriate depending on the particular matter under consideration.

(14) Provision of information by relevant partner authorities

A relevant partner authority\(^3\) shall provide to the relevant Scrutiny Committee such information as that committee may reasonably require in order to discharge its functions, being information which:

(a) has been requested in writing, and
(b) relates to a local improvement target which:
   (i) relates to the relevant partner authority, and
   (ii) is specified in the local area agreement for Oxfordshire.

(15) Members and Officers Giving Account

(a) Any Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council or executive functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require the Leader of the Council or any other Cabinet Member, the County Director and/or any senior officer to attend before it to explain in relation to matters within its 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 a 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 10 working days’ notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend 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.

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\(^3\) See Annex 1 to Council Procedure Rules at Part 3.1 for full list.
(c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Proper Officer shall in consultation with the member or officer arrange an alternative date for attendance.

(16) **Attendance By Others**

(a) The Performance Scrutiny Committee (acting as the ‘Crime and Disorder Committee’) may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions, but only if reasonable notice of the intended date of attendance has been given to that person.\(^5\)

(b) In addition to the powers set out in (a) above, a Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. The Chairman of the Committee shall decide the appropriate form of participation as relevant to the issues under consideration and the individual circumstances prevailing.

(17) **Public Access to Meetings of Scrutiny Committees**

Apart from the attendance rights on the part of members of the public under the Council's Access to Information Rules, the provisions of the Council Procedure Rules enabling members of the public to present petitions at meetings and to request the opportunity to address meetings on items on the agenda shall apply to meetings of the Scrutiny Committees.

(18) **Call In**

(a) When a decision is made by the Cabinet or by an individual member or by a committee of the Cabinet, or a key decision is made by an officer acting under delegated authority, the decision shall be published by the Proper Officer in the form of a decisions list by the end of the next working day and circulated to all Councillors, and in the case of education functions to the co-opted members on the Education Scrutiny Committee.

(b) That list will bear the date on which it is published and will specify that the decision will come into force, and take effect at 5pm on the fifth working day (4pm on the fifth working day if that day is a Friday) following such publication of the decision.

(c) During that period, the Proper Officer shall call in a decision for scrutiny by the Performance Scrutiny Committee:-

1. if s/he receives a joint request from the Chairman and Deputy Chairman of the relevant Scrutiny Committee; or

\(^5\) *The Crime and Disorder (Overview and Scrutiny) Regulations 2009*
(ii) if requested to do so by 5 members of a Scrutiny Committee (whether members of the Council or co-opted non-councillor education voting members of the Children’s Services Scrutiny Committee); or

(iii) if requested to do so by any 10 members of the Council, whether or not they are members of the relevant Scrutiny Committee.

In all cases, when a request for a call in of a decision is made, this must be accompanied by reasons for the request.

When the Proper Officer receives a request in accordance with (c) above, s/he shall then notify the decision maker of the call in. S/he shall then call a meeting of the Performance Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chairman and Deputy Chairman of that Committee. Subject to the statutory requirements for the calling of meetings, the Scrutiny Committee should normally meet within 15 working days of the request being received by the Proper Officer to consider the issue.

(d) If, having considered the decision, the Scrutiny Committee has material concerns about it, then the Scrutiny Committee may refer it back to the decision making body or officer for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. The views of the Scrutiny Committee will be considered by the decision maker (in the case of recommendations from scrutiny committees following call-in of a decision made by an individual member of the Cabinet these recommendations shall be considered by the Cabinet) or the Council as appropriate within a further 15 working days, and the decision will then be amended or otherwise and take immediate effect.

If following a request for a call in made under Rule (17)(c) the Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making body or officer, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of the 30 working day period commencing with the date on which the request was received by the Proper Officer, whichever is the earlier.

(e) If the matter was referred to the Council and the Council does not object to a decision which has been made, then no further action will be taken and the decision will be effective in accordance with the provision in (h) below. However, if the Council does object then, unless that decision is contrary to the budget and policy framework, the Council will refer that decision together with its views on it back to the decision maker. The Council’s views on the decision will be considered by the decision maker within a further 15 working days, and the decision will then be amended or otherwise and take immediate effect.
(f) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

(g) The Cabinet Member(s) with responsibility for the subject matter of a request for a call in and the Chairman and Deputy Chairman of the relevant scrutiny committee may together agree variations of any or all the time limits in Rule (17)(d), (e), (f) and (g), to allow consideration of the call-in at the next ordinary meeting of the committee if they are satisfied that the matter is not so urgent as to require compliance with those time limits.

(h) The foregoing provisions of this Rule shall not apply to any decision of the Cabinet where either:

(i) the Scrutiny Committee has already made observations to the Cabinet on the basis of substantially the same report and/or other information or advice as that on which the Cabinet's decision is based and the Cabinet has had regard to those observations in taking the decision; or

(ii) the decision is taken by the Cabinet after taking account of any recommendations or other comments by the Scrutiny Committee following a call in of a decision taken previously by the Cabinet.

(19) Call In and Urgency

(a) The call in procedure set out above shall not apply where the decision being taken by the Cabinet, Officer or other decision maker 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 maker, the decision is an urgent one, and therefore not subject to call in. The Chairman of the Council must agree that in all the circumstances the decision should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman’s agreement shall be required. In the absence of both, the Proper Officer’s agreement shall be required. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency.

(b) The requirement contained in the foregoing provision of this Rule to obtain the agreement of the Chairman, Vice-Chairman or Proper Officer shall not apply to any decision on the letting of a contract arising from termination of an existing contract if the time available is such that allowing for call-in would result in service discontinuity, provided that all
members of the relevant Scrutiny Committee have been informed of the circumstances of the decision to be made and have had an opportunity to make representations to the decision maker about it.

(c) 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.

(20) The Party Whip

To enable the Scrutiny Committees to hold decision makers to account effectively, the party whip shall not be applied to the business of the committees.

(21) Procedure at Scrutiny Committee Meetings

(a) Scrutiny Committees shall consider the following business:
   (i) election of a person to preside if the Chairman and Deputy Chairman are not present;
   (ii) approval of the minutes of the last meeting and receipt for information of any matters arising therefrom;
   (iii) apologies for absence and temporary appointments;
   (iv) declarations of interest;
   (v) consideration of any matter referred to the Committee by way of a call in of a decision;
   (vi) consideration of any Councillor Call for Action;
   (vii) responses of the Cabinet to reports of the Scrutiny Committee; and
   (viii) the business otherwise set out on the agenda for the meeting.

(b) Where a Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
   (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
   (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
   (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the relevant Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public. Where any investigation or review is conducted by a Review Panel, that Panel will refer its findings to the relevant Scrutiny Committee who shall consider those and if they consider it appropriate prepare a report for submission to the Cabinet and/or Council as appropriate and shall make the report and findings public.
Protocol on Scrutiny Participation

(1) Introduction & Context

The Council’s scrutiny committees may invite people other than Council members and officers to address them, discuss issues of local concern and/or answer questions. This may include, for example, residents, stakeholders and members and officers in other parts of the public sector.

The Council also believes that stakeholders and the public should be able to have a direct means of participating in the work of scrutiny committees.

This protocol should be read in conjunction with other elements of this Constitution, in particular the Council and Scrutiny Procedure Rules, which enable members of the public to present petitions and to request the opportunity to address meetings on items on their agendas.

(2) Stakeholder Criteria

All stakeholders and the public will be entitled to suggest issues for review by scrutiny committees.

(3) Criteria for Reviews

Scrutiny committees may commission review work to then be included within Work Programme(s).

Scrutiny committees may review and/or scrutinise decisions taken in connection with the discharge of any of the Council’s functions, make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions and consider any matter affecting the area or its inhabitants. Any reviews proposed under this protocol should accord with these criteria.

(4) Procedure for Co-ordination of Stakeholder Ideas

(a) Any issue proposed for review by a scrutiny committee, must be accompanied by a brief description of what the stakeholder/public would like to see reviewed and be submitted to the Head of Scrutiny;

(b) Representatives of stakeholder organisations and members of the public will be able to address the relevant scrutiny committee on their proposal for a review as part of the public address procedure. A submission for a review does not automatically mean that the review will be commissioned; it will depend on the overall workload of the individual committee concerned and other reviews commissioned and will be at the discretion of that scrutiny committee.
(c) The Head of Scrutiny, having consulted the Chairman and the Deputy Chairman of the relevant scrutiny committee, will submit the request together with the description of the review from the key stakeholder organisations/members of the public submitting the request to the relevant Committee’s next scheduled meeting. The key stakeholders/members of the public making the request will be invited to that meeting to speak to their proposal and/or answer questions. A calendar of scheduled meetings is included on the Council’s website.

(d) Subject to the relevant scrutiny committee’s endorsement of any review and brief proposed, or as amended by that committee, the determination of resources will be allocated by agreement of the Chairmen of the County Council’s scrutiny committees having regard to the potential for duplication of effort and any issues of dispute between the scrutiny committees. Where an idea for a review is not pursued the reasons will be given to the stakeholder organisation or member of the public.
Scheme of Delegation to Officers

1. Introduction

1.1. This scheme of delegation authorises the relevant officers to exercise the functions of the council as set out in this scheme and the Constitution. For the purpose of this scheme, ‘officers’ includes those officers included in Part 2, Article 13 of the Constitution.

1.2. This scheme is without prejudice to the exercise of the council’s functions by the council, the Cabinet, the council’s committees and sub-committees and their own powers of delegation and by the officers mentioned within 1.1 above.

1.3. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Chief Executive.

1.4. The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her.

1.5. For the avoidance of doubt:

(a) the Chief Executive has over all other officers the powers which they are entitled to exercise under this Scheme;

(b) an officer may refer any matter to the Council, the Cabinet, or a committee of the Council as appropriate either:

   (i) in lieu of exercising his/her powers in relation to that matter; or

   (ii) for consultative purposes before exercising those powers;

(c) the power to exercise any function includes the power to exercise that function in a positive or negative manner or to refuse to exercise the function;

(d) nothing in this Scheme prevents the Council, the Cabinet or a committee of the Council from exercising a function in place of an officer;

(e) in this Scheme references to the Cabinet shall be taken to include the relevant Cabinet Member, a committee of the Cabinet or an area committee insofar as the function concerned has for the time being been delegated to such member or committee;

(f) any exercise of delegation making incorrect references to any part of the Constitution, relevant statute, legislation or bylaw shall not of itself invalidate the authorised delegation.
2. Principles of Delegation

2.1. The Chief Executive and other officers (as defined in paragraph 1.1 of this Scheme) – are empowered to make decisions on behalf of the council in accordance with the following general principles:

(a) If a function, power or responsibility has not been specifically reserved to the council, a committee, or the Cabinet, the other officers within whose remit the matter falls is authorised to act.

(b) The council, its committees and the Cabinet will make decisions on matters of significant policy. The Chief Executive and the other officers have express authority to take all necessary actions to implement council, committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.

(c) The Chief Executive and the other officers are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.

(d) The Chief Executive and the other officers are empowered to take all necessary decisions in cases of emergency1.

(e) In relation to all delegated authority conferred on the other officers by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit.

(f) Where an officer is absent from the workplace for a period of time that requires others to exercise delegated authority in the officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing.

(g) Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive or their nominee is authorised to act;

(h) All officers are empowered to act as deputies of the Chief Executive in his/her absence, subject to the following:

(i) In the first instance, the person deputised to act will be the other officer named on the duty rota operated by the Council

1 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that failure to act would seriously prejudice the Council's or the public's interests. Such interests are to be interpreted widely and include (but are not limited to) the risk of damage to property or threat to the health or wellbeing of an individual.
(ii) In the absence of both the Chief Executive and the duty rota officer, any other officers may deputise for the Chief Executive in consultation with the Strategic Director - Resources and Chief Finance Officer.

(i) Anything delegated to an officer is also delegated to the Chief Executive;

(j) These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the council’s goals.

(k) The exercise of delegated functions shall be in accordance with the managerial requirements of the Chief Executive otherwise than in matters of professional expertise, and subject to the legal requirements of the Strategic Director of Resources and the financial requirements of the Director of Finance.

2.2. In deciding whether or not to exercise such delegated powers, the Chief Executive and the other officers should consider whether to consult the appropriate Cabinet member(s) or committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.

2.3. The Chief Executive and the officers may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme.

3. Recording of Delegations and Decisions

3.1. All delegations conferred under this scheme must be recorded in writing by the Chief Executive and the other officer in such a form as the Director of Law and Governance may prescribe (including for the avoidance of doubt any delegation under paragraph 2.1(e) above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name.

3.2. Each officer will maintain a separate record of sub-delegations pertaining to his/her directorate and will provide copies to the Director of Law and Governance for retention.

3.3. The Director of Law and Governance will maintain a central record of all delegations under this scheme and make this available for public inspection. The record shall be kept up to date according to any additions or other variations to the powers and functions which are delegated to officers.

3.4. Any decision of an officer having substantive effect shall be recorded in such a manner that all those who may have an interest in that decision have certain knowledge of its effect. Any key decision shall be recorded as required by the Access to Information Rules and notification given in accordance with the Scrutiny Procedure Rules at Part 6.2 of this Constitution.
4. **Scope of Powers**

4.1. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the council’s constitution, including its contract and financial procedures and regulations, and overall council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the council.

4.2. Without prejudice to the generality of the foregoing the Chief Executive and the other officers shall have the power:

(a) to take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:

(i) invitation and acceptance of tenders, subject to the Contract Procedure rules at Part 8.3 of this Constitution;

(ii) preparation and submission of bids for external funds or grants for purposes related to the provision of services and acceptance of such funds and grants on such terms and conditions as may be agreed, subject to consulting the Director of Law and Governance where contractual obligations are involved;

(iii) write-off of irrecoverable amounts (including bad debts) up to such limit as may for the time being be prescribed by the Financial Procedure Rules at Part 8.2 of this Constitution subject in each case to the written approval of the Director of Finance (or of a member of his/her staff nominated by him/her for that purpose) and to such approval being shown in the accounting records;

(iv) virement (within the budget framework);

(v) disposal and acquisition of assets;

(vi) subject to the requirements of the Director of Law and Governance given either generally or in a particular case, the issue of formal notices, orders, instructions and instruments required under any legislation relating to his/her functions and areas of service or otherwise to give legal effect to the exercise of the powers set out above;

(vii) authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the council, subject to authorisation by the Director of Law and Governance;
(viii) the negotiation of agreements or arrangements with other directorates of the Council or other companies or organisations relating to the provision of services for his/her directorate;

(b) to put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility;

(c) in the case of any overspend to notify the Director of Finance in the role of Section 151 officer in accordance with the financial procedure rules and regulations;

(d) subject to the Officer Employment Rules set out at Part 8.4 of this Constitution, to determine staffing arrangements within his or her directorate within approved budgets (except for staff employed in schools with delegated budgets), including:

(i) appointments, unless the power to appoint to a particular post rests with the Council or a committee of the Council;

(ii) dismissal of any employee subject to the concurrence of the Director of Human Resources (except where the power of dismissal is vested by law in the other officer);

(iii) the transfer of posts within the total establishment of his/her directorate;

(iv) all disciplinary matters;

(v) granting ex-gratia payments up to a limit determined by the Director of Law and Governance to employees who have suffered loss of, or damage to, personal property in the course of their work;

(vi) extending an employee’s sick leave on half pay for a period not exceeding the equivalent period of half pay already received; and

(vii) granting up to 10 days’ additional paid leave on compassionate grounds, or up to twelve months unpaid leave;

(viii) granting unpaid leave beyond twelve months, and any other exceptional request for leave, subject to the agreement of the Director of Human Resources and the Director of Finance.

(e) to take all action to recruit, appoint, develop, manage and reward employees, in accordance with legislation and within approved council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service for staff.
5. **Delegation in Practice**

5.1. In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:

(a) a key decision should be taken in accordance with the relevant requirements (including the requirements for the recording of such decisions under Rule 18 of Part 8.1 of this Constitution);

(b) the views of the relevant Cabinet member(s) and committee chairman following the application of the consultation criteria set out in paragraph (c) below;

(c) the implication of any council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision in other services. In such cases, consultation with officers, relevant Cabinet member(s) or committee chairmen from any affected portfolio and local members, where the issue relates to a specific area, should take place;

(d) consultation in accordance with the council’s consultation strategy and the views emanating from that process;

(e) the range of available options;

(f) the staffing, financial and legal implications;

(g) the assessment of any associated risks in accordance with the council’s risk management strategy;

(h) the involvement of appropriate statutory officers and/or other officers;

(i) the relevance of any regional or national guidance from other bodies;

(j) the council’s constitution, including the Forward Plan, its contract and financial procedures and regulations, all relevant guidance, legislation, codes of practice and protocols.

5.2. Any member may request that executive decisions taken by officers under delegated powers are scrutinised by the appropriate scrutiny committee.

6. **Specific Powers and Functions**

6.1. Subject to the foregoing and without prejudice to the general effect of this scheme, the Chief Executive and the other officers designated for the purpose may exercise such specific powers and functions:
Part 7.1 Scheme of Delegation to Officers

(a) in the capacity of proper officer; or
(b) otherwise on behalf of the Council, the Cabinet or a committee of the Council

as may be delegated to them from time to time. The powers and functions which are for the time being delegated to the Chief Executive, Director of Law and Governance and the Director of Finance are listed in this section.

6.2. The Director of Law and Governance shall keep this scheme of delegation up to date according to any additions or other variations to the powers and functions of the Chief Executive, Director of Law and Governance, the Director of Finance and the other officers.

6.3. The Chief Executive is authorised to undertake:

(a) The functions under Section 4 of the Local Government and Housing Act 1989 as the Head of Paid Service of the Council, and in accordance with Article 13 of this Constitution.

(b) Allocation of accommodation for the purposes of the Council, the Cabinet, committees, sub-committees and members.

(c) Any function of the Cabinet or of a Council committee or sub-committee, after consultation with the appropriate other officer and thereafter:

(i) in the case of an executive function, with the Leader of the Council or, in his/her absence, the Deputy Leader of the Council; or

(ii) in any other case, with the Chairman of the relevant committee or sub-committee or, in his/her absence, the Deputy Chairman of the relevant committee or sub-committee.

Any exercise of these functions shall be reported to the Cabinet or other relevant committee or sub-committee and shall be published on the website as soon as possible.

(d) Following consultation with employees’ representatives and with the Cabinet Member having responsibility for human resources and any other member(s) of the Cabinet whose responsibilities include a service particularly affected, approval of amendments to the County Council’s personnel policies and procedures, subject to reference being made to the Cabinet where either:

(i) they would have material budget implications; or
(ii) material concerns about them have been expressed by the employees’ representatives.

(e) The powers and duties of County Returning Officer for the purposes of Section 35 of the Representation of the People Act 1983.
6.4. The Director of Law and Governance is authorised to:

(a) take any action to implement any decision taken by or on behalf of the council, including the signature and service of statutory and other notices and any document; and authority to apply the Common Seal of the County Council to deeds in order to execute them;

(b) institute, defend, settle or participate in any legal proceedings or disputes in any case where such action is necessary to give effect to decisions of the council or in any case where the Director of Law and Governance considers that such action is necessary to protect the council’s interests;

(c) consult with and instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the council, and the negotiation and settlement of legal disputes on behalf of the Council, the Cabinet, committees of the Council or officers and arrangements for their representation in any court, public inquiry or other forum where he/she considers formal representation to be proper, including the incurring of such fees in respect thereof as may be appropriate;

(d) authorisations under Section 223 of the Local Government Act 1972 (appearance by persons other than solicitors in legal proceedings);

(e) acting as trustee on behalf of the Council in respect of any matter whereon he/she considers such action to be appropriate;

(f) enter objections to any proposal affecting the county, the council or the inhabitants of the county;

(g) undertake the following proper officer functions of the Council under the Local Government Act 1972:

(i) Declaration of Acceptance of Office (Section 83);
(ii) Notice of Resignation of Office (Section 84);
(iii) Convening of and Summonses to Meetings (Section 88 & Schedule 12);
(iv) Filling of Casual Vacancies (Section 89);
(v) General Notices regarding Pecuniary Interest (Section 96);
(vi) Ordnance Survey (Section 191);
(vii) Charitable Trusts (Section 210);
(viii) Deposit of Documents (Section 225);
(ix) Certificate of Photographic Copies of Documents (Section 229);
(x) Authentication of Documents (Section 234);
(xi) Procedure etc. for Bye-Laws (Section 236);
(xii) Evidence of Bye-Laws (Section 238);
(xiii) Enactments relating to Town & Country Planning (Schedule 16);
(xiv) Adaptations, Modifications and Amendments of Enactments (Schedule 29);
(h) the functions of Monitoring Officer within the meaning of Section 5 of the Local Government and Housing Act 1989 and in accordance with Article 13 of this Constitution;

(i) the proper officer functions of the Council for the purposes of giving public notice of the receipt of a report from the Local Commissioner, for the purposes of Part III of the Local Government Act 1974;

(j) following consultation with the Director of Finance and with the Leader and Deputy Leader of the Council, approval of new or amended operational policies and procedures for the governance of the Council, subject to reference being made to the Cabinet where either:

(i) they would have material budget or substantive policy implications; or
(ii) material concerns about them have been expressed by the employees' representatives;

(k) such proper officer functions of the Council other than those specified in this section as are not specifically delegated to any other officer;

(l) the functions under Section 16(1) and Section 16(2) of the Local Government and Housing Act 1989 to give effect to the wishes of the political groups as regards membership of scrutiny committees and committees of the Council;

(m) the proper officer functions of the Council for the purposes of Part VA of the Local Government Act 1972 (Access to Information);

(n) making of appointments to outside bodies in accordance with the Council's published arrangements relating to representation on outside bodies;

(o) making of appointments to school admission and exclusion appeal panels;

(p) to adjust the terms of reference of a scrutiny committee to reflect detailed changes in the remits of individuals or bodies which are specified in those terms of reference, subject to the concurrence of the Scrutiny Co-ordinating Group in each case;

(q) authorisation of the reproduction or display of the Council's armorial bearings or any part thereof;

(r) as Monitoring Officer, the functions of the ‘qualified person’ under the Freedom of Information Act 2000 (Section 36(5)(o)(iii)) for determining whether the exemptions under Section 36 are engaged.
6.5. The **Director of Finance** is authorised to undertake:

(a) The proper officer functions of the Council for the purposes of Section 115 of the Local Government Act 1972 (Receipt of Money) and for the administration of the Council’s financial affairs under Section 151 of the Act, and in accordance with Article 13 of this Constitution.

(b) The proper officer functions of the Council for the purposes of Section 146 of the Local Government Act 1972 - Transfer of Securities.

(c) The functions of 'responsible officer' for the purposes of financial administration under the Local Government Finance Act 1988.

(d) Functions as the officer responsible for maintaining an adequate and effective system of internal audit.

(e) Implementation of pay awards made nationally or locally under procedures recognised by the Council.

(f) The making of investments of the County Pension Fund in accordance with the policies determined by the Pension Fund Committee.

(g) Determination of cases of whether the education or training should be treated as continuous where an eligible child for the payment of a dependent’s pension benefit under the Local Government Pension Scheme Regulations is over 17 and has been engaged continuously in full-time education or in training for a trade, profession or vocation has taken a gap year, subject to a report to the Pension Fund Committee on such determinations.

6.6. **Other Officers**

Each officer is authorised to act on behalf of the Council in relation to any operational matters within the service areas for which s/he is responsible as set out in Article 13, subject to the provisions of Part 7.2 of this Constitution. The Officer will maintain a separate record of sub-delegations pertaining to his/her directorate and will provide copies to the Director of Law and Governance for retention under this Schedule.

6.7. For the avoidance of doubt, the delegation to the Strategic Director for Communities includes the power, jointly with the Director of Law and Governance, to determine applications for certificates of lawfulness of existing or proposed use or development.
Access to Information Procedure Rules

1. Scope of these Rules

These rules apply to all meetings of the Council, Scrutiny Committees and Council 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, and Report on, Meetings

Members of the public may attend all formal, public meetings subject only to the exceptions in these rules. The right to attend also includes the right to report and commentate on public meetings of the Council. This right to report and commentate also includes the right to take photographs, film and audio-record the proceedings as well as commentate on the proceedings via social media. Carrying out an oral commentary during the meeting is not permitted as this would be disruptive to the good order of the meeting. The Chairman of the relevant meeting has discretion to suspend an instance of reporting and/or commentating where this amounts to disruptive behaviour and may require any person acting in a disruptive manner to be excluded from the meeting. Members of the public, including journalists, should comply with any policy or guidance on reporting/commentating produced by the Council from time to time. The Council will provide reasonable facilities to enable members of the public to report on meetings and it is advisable that any person wishing to film or audio-record a meeting lets the Council know so that appropriate arrangements can be made.

4. Notice of Meetings

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at County Hall, Oxford and posting details on the Council's web-site.

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 County Hall at least five clear working days before the meeting. Where a report is prepared after the Agenda has been

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1 The right to report and commentate (and their restrictions) are those given under the Openness of Local Government Bodies Regulations 2014.
2 Disruptive behaviour is any activity which, in the opinion of the Chairman of the meeting, disrupts the conduct of the meeting or impedes other members of the public being able to see, hear or film the proceedings. This could include, but is not restricted to, excessive noise, moving from designated areas without the consent of the Chairman, intrusive lighting and flash photography.
published, the Proper Officer will make each such report available to the public as soon as the report is completed and sent to councillors. All agendas and reports will be made available on the Council’s web-site where these exist in electronic form.

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.

These will be placed on the web site where they exist in electronic form.

8. Background Papers

8.1 List of Background Papers

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his 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.
This does not include published works or those which disclose exempt or confidential information (as defined in Rule 10 of these Rules) and in respect of Cabinet reports, the advice of a political advisor.

8.2 Public Inspection and Purchase of Background Papers

The Council will keep for four years after the date of the meeting at least one copy of each of the documents on a list of background papers so that it can be produced for inspection as soon as reasonably practicable after a request to inspect the document has been received. Any person is entitled either:

(a) to make copies or extracts from such a document; or
(b) to be supplied with a photocopy of all or parts of the document on payment of a reasonable fee;

provided in either case that copyright is not infringed.

9. Summary of the Public’s Rights

A written summary of the public’s rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at County Hall, Oxford.

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 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.

10.3 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. However there is a presumption of openess that requires any meeting to be held in public unless there are compelling grounds for excluding the public.
### 10.4 Meaning of Exempt Information

Subject to the conditions and exclusions in Rule 10.5 below, exempt information is defined in the relevant Regulations as information falling within any of the following categories:

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<th>Category</th>
<th>Interpretation</th>
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<tr>
<td>1. Information relating to any individual</td>
<td>To be exempt the information must relate to a particular and identifiable person</td>
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<td>2. Information which is likely to reveal the identity of an individual</td>
<td>Such affairs may be contemplated, as well as past or current (see also condition (a) in 10.5 below)</td>
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<tr>
<td>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</td>
<td>“Labour relations matters” are as specified in section 218(1)(a)-(g) of the Trade Unions and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute); “employee” means a person employed under a contract of service; “office-holder” means a paid appointee to an office</td>
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<tr>
<td>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority</td>
<td>“Legal professional privilege” is a right in certain situations to withhold documents conveying legal advice to a client or relating to litigation</td>
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<tr>
<td>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</td>
<td></td>
</tr>
<tr>
<td>6. Information which would reveal 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</td>
<td></td>
</tr>
<tr>
<td>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</td>
<td></td>
</tr>
<tr>
<td>7A. Information which is subject to any obligation of confidentiality. 7B. Information which relates in any way to matters concerning national security.</td>
<td></td>
</tr>
</tbody>
</table>

### 10.5 Exempt Information – Conditions and Exclusions

Under the relevant Regulations information is not exempt:

(a) if it is required to be registered under
   - the Companies Act 1985;
   - the Friendly Societies Act 1974;
   - the Friendly Societies Act 1992;
   - the Industrial and Provident Societies Acts 1965 to 1978;
   - the Building Societies Act 1986; or
   - the Charities Act 1993;
(b) if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992;

(c) unless in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.5 Restriction on the recording of proceedings

The right to record proceedings (under the Openness of Local Government Bodies Regulations 2014) does not extend to the recording of confidential or exempt discussions. Where the public are excluded from meetings, this exclusion means that no recording equipment may be left in the room to record proceedings. The Chairman of the meeting may require that recording equipment is removed from the meeting for the duration of the confidential/exempt items.

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 her/his 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 “Restricted” together with the category of information likely to be disclosed.

12. Application of Rules to the Cabinet

12.1 Rules 13 – 24 apply to the Cabinet and any committees of the Cabinet.

12.2 The Cabinet and its committees must also comply with Rules 1 – 11 above in relation to the whole or part of any meeting insofar as the Leader of the Council or other person likely to preside at the meeting reasonably believes that either:

(a) a decision to be made will be a key decision as defined in paragraph 3(b) of Article 14 of this Constitution; or

(b) a matter is likely to be discussed which is included in the Forward Plan as defined in Rule 14 or is the subject of a notice under Rule 15 (general exception); and (in either case):

(i) the decision on that matter is likely to be made within 28 days; and

(ii) an officer who is not a political adviser or assistant will be present at the discussion.
12.3 Rule 12.2 does not include a meeting to which sub-paragraph (b) of that rule applies whose principal purpose is for an officer to brief a decision maker on matters affecting the making of an executive decision.

13. Procedure Before Taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken by the Cabinet, a committee of the Cabinet, an individual Cabinet Member, area committee under joint arrangements, or by an officer unless:

(a) a notice (called here a forward plan) has been published in connection with the matter in question;

(b) at least 3 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, a committee of the Cabinet or an individual Cabinet Member, 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 of the Council to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The forward plan will contain matters which the Leader of the Council has reason to believe will be subject of a decision to be taken by the Cabinet, a committee of the Cabinet, individual member of the Cabinet, area committee, or under joint arrangements or of a key decision to be taken by an officer, 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:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, her/his name and title, if any and where the decision taker is a body, its name and details of membership;

(c) the date on which, or the period within which, the decision will be taken;
(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
(e) the means by which any such consultation is proposed to be undertaken;
(f) 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
(g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14.3 Publicising the Forward Plan

The forward plan must be published widely at least 28 clear days before the start of the period covered.

The Proper Officer will publish once a year (between 14 and 21 days before the first forward plan of the new financial year comes into operation) a notice in at least one newspaper circulating in the County and in such other ways as will ensure maximum coverage in the County, stating:

(a) that key decisions are to be taken on behalf of the Council;
(b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
(c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
(d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
(e) 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 including notice of confidential and exempt information;
(f) 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;
(g) that other documents may be submitted to decision takers;
(h) the procedure for requesting details of documents (if any) as they become available;
(i) the dates on each month in the following year on which each forward plan will be published and available to the public at County Hall, Oxford.
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 delay 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; and

(b) the Proper Officer has informed the Chairman of the Performance Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter on which the decision is to be made; and

(c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and

(d) at least five clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public unless Rule 10 applies.

16. **Special Urgency**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision maker obtains the agreement of the Chairman of the Performance Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee, or if the Chairman is unable to act, then the agreement of the Chairman of the Council, or in her/his absence the Vice-Chairman will suffice.

17. **Report to Council**

17.1 **When Scrutiny Committee can require a Report**

If the Performance Scrutiny Committee thinks that a key decision has been taken which was not:

(a) included in the forward plan; or

(b) the subject of the general exception procedure; or

(c) the subject of an agreement with a relevant Scrutiny Committee Chairman, or the Chairman or Vice-Chairman of the Council under Rule 16;
the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members of it. Alternatively the requirement may be raised by resolution passed at a meeting of the Performance 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 10 working days of issue of the written notice, or the resolution of the Scrutiny 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 of the Council 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 of the Council will submit quarterly reports to the Council on any 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 Committee of the Cabinet, to which these rules apply, the Proper Officer 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. How each member of the Cabinet voted will be noted as a matter of public record.

19. Cabinet Meetings Relating to Matters which are not Key Decisions

All decisions of the Cabinet or any committee of the Cabinet in the exercise of executive functions which are not key decisions will be made at a public meeting. Rules 1 – 11 above will apply. Where any item is to be added to a published agenda, the Proper Officer will notify the Chairman of the Performance Scrutiny Committee at the time the item is added.
20. **Non-Cabinet Members**

All members of the Council and the voting co-opted members of the Education Scrutiny Committee will be entitled to receive the Cabinet Forward Plan each month when it is published. All members of the Council will, subject to the provisions of section 7 of the Protocol on Members’ Rights and Responsibilities set out at Part 9.2 of this Constitution, be entitled to receive the agenda for and minutes of each meeting of the Cabinet or a committee of the Cabinet. The voting co-opted members of the Education Scrutiny Committee will be entitled to receive, subject to the provisions of section 7 of the Protocol on Members’ Rights and Responsibilities set out at Part 9.2 of this Constitution, any items on an agenda of the Cabinet or any Committee of the Cabinet which concern the discharge of any education functions.

21. **Officers**

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 including any part of a meeting from which the public has been excluded.

22. **Decisions by Individual Members of the Cabinet**

22.1 **Reports Intended to be Taken into Account**

Where the Cabinet has delegated decision making powers to an individual member of the Cabinet and s/he receives a report which s/he intends to take into account in making an executive decision, then s/he will not make the decision until at least five clear days after receipt of that report.

22.2 **Provision of Copies of Reports to Scrutiny Committees**

On the giving of such a report to an individual decision maker, the Proper Officer will at the same time also give a copy of it to the Chairman of every relevant Scrutiny Committee and make it publicly available.

22.3 **Record of Individual Decisions**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, s/he will 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. This does not require the disclosure of confidential or exempt information as defined in Rule 10.
23. Scrutiny Committees Access to Documents

23.1 Rights to copies

Subject to Rule 23.2 below, a Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or any Committee of the Cabinet or any Committee of the Council and which contains material relating to any:

(a) business transacted at a meeting of the Cabinet or a Committee of the Cabinet or Committee of the Council
(b) decision taken by an individual member of the Cabinet
(c) decision taken under joint arrangements
(d) key decision taken by an officer.

23.2 Limit on rights

A Scrutiny Committee will not be entitled to:

(a) any private briefing document from an officer to the Cabinet, individual Cabinet member or a political Group;
(b) any document that is in draft form, unless the Cabinet believes that it is necessary for the Scrutiny Committee in order to carry out its challenge role on behalf of the Cabinet;
(c) any part of a document that contains confidential or exempt information as defined in Rule 10, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
(d) the advice of a political adviser.


24.1 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 a Committee of the Cabinet which relates to any key decision to be taken as set out in the Forward Plan in Rule 14 unless paragraph (a), (b) or (c) below applies:

(a) any private briefing document from an officer to the Cabinet, individual Cabinet member or a political Group;
(b) it contains exempt information falling within paragraphs 1, 2, 3 (if relating to contract terms in the course of negotiation), 4, 5, 7 or 7A-C of the categories of exempt information as defined in Rule 10; or
(c) it contains the advice of a political adviser.

Where a member wishes to inspect any document which contains exempt information falling within (b) above as s/he believes that it is necessary to do so in order to properly fulfil her/his duties as a County Councillor then the procedure set out in the Protocol on Members’ Rights and Responsibilities at Part 9.2 of this Constitution should be followed.

24.2 Material Relating to Cabinet and Non-Cabinet Decisions and to Previous Business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or a Committee of the Cabinet or a Committee of the Council and contains material relating to any business to be transacted at a meeting or previously transacted at a meeting unless either (a), (b) or (c) in Rule 24.1 above applies.

24.3 Nature of Rights

These rights of a member are additional to any other right s/he may have in law.
OXFORDSHIRE COUNTY COUNCIL
FINANCIAL PROCEDURE RULES
# Financial Procedure Rules

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26 August 2014

8-14
Financial Procedure Rules

FINANCIAL MANAGEMENT STANDARDS

1. All officers and councillors have a duty to abide by the highest standards of probity in dealing with financial issues. The Council is required by law to follow proper accounting practices and to secure best value.

2. The title Director includes Deputy Directors, Heads of Service and any officer or agent of the Council acting as, or for, a Director.

The Cabinet

3. The key controls and control objectives for financial management standards are:

   • Their promotion throughout the council;
   • A monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet. This includes the Cabinet as a whole and individual Cabinet Members.

Responsibilities of Chief Finance Officer

4. The Chief Finance Officer is required to:

   • Ensure the proper administration of the financial affairs of the Council, to set the financial management standards and to monitor compliance with them;
   • Ensure that financial systems and procedures are in place to provide financial information to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators;
   • Issue and keep under review Financial Regulations under these Rules which councillors, officers and agents of the Council are required to follow;
   • Establish a Head of Profession and Section 151 matrix which details delegation of responsibility and support for the proper administration of financial affairs.

Responsibilities of Directors

5. Directors are required to:

   • Promote the financial management standards set by the Chief Finance Officer in their directorates and to monitor adherence to the standards and practices, liaising as necessary with the Chief Finance Officer;
• Promote sound financial practices in relation to the standards, performance and development of staff in their directorates. This includes a clear delegation framework to Deputy Directors, Heads of Service and Budget holders;
• Comply with Financial Regulations and procedures and other financial instructions issued by the Chief Finance Officer.

BUDGETING

The Cabinet

6. The Cabinet is responsible for ensuring that there is effective financial planning within the Council. This includes recommending a budget to the Full Council for the forthcoming financial year and monitoring actual spend and commitments against that budget.

Responsibilities of Chief Finance Officer

7. The Chief Finance Officer is required to:

• Work with the County Director to advise the Cabinet on the format of the revenue budget and capital programme recommended for approval by Full Council;
• Provide regular budget monitoring reports on spending, income and commitments to the Cabinet.

Responsibilities of Directors

8. Directors are required to comply with accounting guidance and instructions provided by the Chief Finance Officer. Directors are also required to monitor spending, income and commitments and to provide regular budget reports to the Chief Finance Officer.

REVENUE BUDGET AND CAPITAL PROGRAMME PREPARATION, MONITORING AND CONTROL

9. Budget management ensures that once Full Council has approved the budget, the resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account the Cabinet, Directors, Deputy Directors, Heads of Service and Budget holders responsible for defined elements of the revenue budget and capital programme.
Responsibilities of Chief Finance Officer

10. The Chief Finance Officer is required to establish an appropriate framework for budgetary management and control that ensures that:

- Budget management is exercised within annual cash limits unless the full Council agrees otherwise;
- Each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- Expenditure is only committed against an approved budget head;
- All officers responsible for committing expenditure comply with relevant guidance and these Financial regulations;
- Each cost centre has a single named ‘Budget holder’, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision making process that commits expenditure;
- Significant variances from the approved budgets are investigated and reported by budget holders monthly.

Responsibilities of Directors

11. Directors are required to maintain budgetary control within their services and to ensure that all expenditure, income and commitments are properly recorded and accounted for.

CAPITAL EXPENDITURE, PROGRAMME AND ASSETS

Initial Capital Resource Allocation

12. The Council sets its Capital Programme as part of the annual Service and Resource Planning Process and determines its capital investment priorities based on an agreed set of principles.

13. No capital commitment shall be entered into unless the initial resource allocation is confirmed within the Capital Programme approved by the Council (either as a specified individual project or as part of a planned annual programme). This is the case for all capital projects and programmes regardless of the funding source identified, i.e. including those funded partly or fully by external grants, contributions, revenue or reported capital surpluses, contingencies or savings.

14. New inclusions to the approved Capital Programme are subject to capital prioritisation by the Cabinet. New inclusions outside of the annual Service and Resource Planning Process can be agreed as follows:-

(a) Where the initial resource allocation is £25,000 or less, the Corporate Finance Manager can agree its inclusion into the capital programme;
(b) Where the initial resource allocation is between £25,000 and £500,000, the Director for Environment & Economy and the Chief Finance Officer can agree its inclusion into the capital programme and this will subsequently be reported to Cabinet;

(c) Where the initial resource allocation is above £500,000, the Cabinet can agree its inclusion into the Capital Programme based on the recommendations by the Director for Environment & Economy and the Chief Finance Officer.

15. All project allocations in the capital programme have a 5% project development budget and a 10% project contingency allowance at the inception stage unless it is stated otherwise in the business cases or there are specific conditions set by external funding bodies where projects are fully or partially externally funded.

16. All programme allocations in the capital programme have a 10% programme development budget and a 10% project contingency allowance at the inception stage unless it is stated otherwise in the business cases or there are specific conditions set by external funding bodies where programmes are fully or partially externally funded.

**Capital Expenditure**

17. Project and programme initial development budgets are released (capital expenditure can be incurred) following either:

(a) the approval of the Capital Programme by the Council where initial business cases are considered as part of the capital budget setting process; or

(b) the approval of initial business cases where these are submitted and considered in year (outside of the capital budget setting process) subject to the levels set out in paragraph 14 above.

18. Project and programme detailed development budgets are released following the approval of the outline business cases as follows:

(a) Where proposed projects are in line with the original scope and timetable and can be delivered within the approved budget agreed by Council/Cabinet its release can be agreed by the Director for Environment & Economy and the Chief Finance Officer;

(b) Where proposals require changes to the agreed scope, delivery timetable and approved budget, the Chief Finance Officer is responsible for determining the level at which approval must be sought in line with paragraph 24 below;
(c) The service managers responsible for the project or a programme delivery are required to ensure that robust strategic and gateway reviews are undertaken and consultations with the relevant Cabinet members and key stakeholders are carried out in advance of outline business case approval.

(d) Outline business cases for programmes of works should list individual schemes including a budget and description of the works for each scheme.

19. Contractual capital commitments for project and programme delivery can be entered into when following conditions are satisfied:

In the case of a project or a programme that costs:

(a) £500,000 or less, it has been approved and recorded by the Service or Cost Centre Manager;

(b) Between £500,000 and £1,000,000, the relevant Service Manager\(^1\) has approved a full business case for that project or programme;

(c) Between £1,000,000 and £2,000,000, the relevant Deputy Director\(^2\) has approved a full business case for that project or programme;

(d) Between £2,000,000 and £5,000,000 the relevant Director\(^3\) and the Chief Finance Officer have approved a full business case for that project or programme;

(e) £5,000,000 and over, the Cabinet has approved a full business case for that project or programme.

20. And in all circumstances, the Chief Finance Officer (or his/her representatives) must confirm that the revenue implications of the project or the programme are affordable based on the final full business case.

21. Where the programmes or projects include issuing capital grants to 3rd parties, relevant officers should seek appropriate legal and financial advice, draw up a funding agreement and specify evidence required to demonstrate the capital spend and other related output measures.

22. Where the tender figures or other variation occur, this will fall within the provisions of paragraph 24 below.

\(^1\) In the case of transport and property programmes/projects the relevant Service Managers are those listed under Group 2 of the E&E scheme of delegation who are responsible for the delivery of the transport capital programme and the property capital programme respectively.

\(^2\) In the case of transport and property programmes/projects the relevant Deputy Directors are the Deputy Director for Environment & Economy – Commercial & Delivery and the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning.

\(^3\) In the case of transport and the property programmes/projects the relevant Director is the Director for Environment & Economy.
23. In all circumstances, the use of contingencies is closely monitored and they are returned back to the capital programme where they are not needed. They should not be used for enhancing the agreed scope of the project. Proposed variations of this nature will fall within the provisions of paragraph 24 below.

Variation in costs

24. Where any tender or other variation will (or may) produce an increase on the total cost of that project or programme, additional approvals must be sought as follows:

(a) Where the variation is less than £25,000, the Corporate Finance Manager must approve the change;

(b) Where the variation is between £25,000 and £500,000, the Director for Environment & Economy and Chief Finance Officer must approve the change;

(c) Where the variation is over £500,000, the Cabinet must approve the change.

Services should explain the reasons for the reported variation and confirm their agreement to any scope changes in their reports, and bring funding proposals to address the increased cost where relevant.

25. Approval should be sought at a higher level than stated above in cases where the estimated level of percentage increase is very high or where the viability and value for money of the scheme are threatened.

External Contributions

26. All external funding applications for capital resources should be in line with Corporate Plan objectives and be assessed against the agreed set of prioritisation principles for capital investment. Service Managers responsible for the application should inform the Chief Finance Officer and the Director for Environment & Economy about the proposed use of these resources and related implications prior to making an application.

27. Where the scale of the applications is significant or proposals have major implications for the Council’s asset and infrastructure base or its Medium Term Financial Plan, they will need to be agreed by the Chief Finance Officer.

28. Where external contributions are restricted for specific purposes, they should be used for the purposes for which they are issued in line with the relevant funding agreements or grant conditions.

29. Where external contributions are partially or fully flexible, their use is subject to capital prioritisation by the Cabinet and approved subject to the levels set out in paragraph 14.
30. Capital Programme entry for externally funded programmes and projects requires, in addition to the requirements at paragraph 14, a formal notification by or a formal agreement with the relevant funding body or third party. Where there is a need to expend resources in advance of receiving such notification or agreement, approval must be sought from the Chief Finance Officer based on a risk assessment.

31. Approval and variation thresholds stated in paragraphs 19 and 24 also apply to programmes or projects that are fully or partially externally funded.

Insurance reinstatements

32. In the case of insurance reinstatements paragraphs 14, 19 and 24 above apply if the Council is contributing additional resources. If there is a proposal to change the use of an asset or the service provided from this asset, the Director for Environment & Economy and the Chief Finance Officer should review the proposals and make recommendations to Cabinet as required.

Responsibilities of Chief Finance Officer

33. The Chief Finance Officer, jointly with the Director for Environment & Economy, will ensure that appropriate arrangements are in place to monitor the capital programme and resources, control expenditure against approved budgets, and address any problems of overspending or resource re-allocation.

34. Capital budgets for new projects or changes to the approved capital budgets for projects in the programme will be put forward for approval by the Cabinet as part of a report by the Chief Finance Officer.

35. The Chief Finance Officer will issue guidance as needed on governance and procedures.

Responsibilities of Directors

36. When disposing of assets other than land and property – such as surplus or obsolete materials, stores or equipment, Directors should follow guidance issued by the Chief Finance Officer and seek advice from him/her. When considering service developments which might involve investment in land and property assets or entering into any agreement which includes acquisition, disposal or management of land or property, Directors should follow the guidance issued by the Director for Environment & Economy and seek advice from him/her.

37. Part 7 of the Constitution delegates specific powers and functions to the Director for Environment & Economy. These include various functions relating to the management of land and property. In particular, these set out procedures for the disposal of land and the transfer of assets. In addition, the Director for Environment & Economy has specific responsibilities in relation to the in-year capital resource allocation (paragraphs 14(b) and 14(c)), approval
for programmes and projects related to transport and property assets (18(a) and 19(d)), approval of variations in costs below a threshold (24(b)) and monitoring of the capital programme and other issues (32, 33, 36).

**Leader of the Council**

38. The Leader of the Council may, in conjunction with the Chief Finance Officer, approve any proposed change to the Capital Programme in advance of a report to Cabinet where Cabinet approval is required under paragraphs 14(c), 19(e) and 24(c) above. In these cases, funding must be agreed by the Chief Finance Officer and reported to Cabinet in due course.

**Disposals of Land and Property**

39. In respect of disposals of land and property, the processes followed should be robust and transparent and in accordance with current legislation and Council’s policies for “the Disposal of Surplus Land for Less than Market Value”\(^4\) and “the Sale of Surplus Land for Affordable Housing”\(^5\).

40. The Deputy Director for Environment & Economy – Strategy & Infrastructure Planning should seek appropriate financial and legal advice before any disposal. Then, depending on the value of the disposal, different levels of approval are needed, as follows:

(a) Where the estimated disposal value is less than £2 million, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning may arrange for the disposal of land or property, but;

(b) Where the estimated disposal value is between £2 million and £5 million, a decision by the Director for Environment & Economy and the Chief Finance Officer to proceed with the disposal is required, or:

(c) Where the estimated disposal value of individual property assets is £5 million or more, a decision by Cabinet to proceed with the disposal is required.

Disposals may be at a discounted or ‘undervalue’ level, below the ‘best consideration that can reasonably be obtained’. In these cases, additional financial and legal advice should be sought. Disposals in these cases can be controversial so local circumstances and the scale of the discount in price should be considered when deciding who should make the final decision to sell. Generally though:

(d) Where the ‘undervalue’ is less than £25,000, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning may arrange for the disposal of the land or property; but

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\(^4\) Report to the Cabinet dated 28 October 2003
\(^5\) Report to the Cabinet dated 17 April 2007
(e) Where the ‘undervalue’ is between £25,000 and £500,000, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning must prepare a report to the Chief Finance Officer, requesting approval to proceed with the disposal; or

(f) Where the ‘undervalue’ is £500,000 or more, the Director for Environment & Economy and the Chief Finance Officer must prepare a report to Cabinet, requesting their approval to proceed with the disposal.

41. Approval should be sought at a higher level in cases that are sensitive or where there is a large discount from the ‘best consideration’ value.

42. All capital receipts generated through the disposal of property assets are treated as a corporate resource and used to support the capital programme unless it is specifically agreed otherwise by the Cabinet based on recommendations by the Director for Environment & Economy and the Chief Finance Officer.

Transfers of Property Assets (Land & Property)

43. In respect of transfers of property assets, the processes followed should be robust and transparent and in accordance with Council’s related policies as set out in the Corporate Asset Management Plan.

44. The Deputy Director for Environment & Economy – Strategy & Infrastructure Planning should seek appropriate financial and legal advice before any transfer. Then, depending on the value of loss of income due to the transfer of the property assets, different levels of approval are needed. These are as follows:

(a) Where the estimated loss of income is less than £25,000, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning may arrange the transfer of property assets; or

(b) Where the estimated loss of income is between £25,000 and £500,000, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning must prepare a report to the Chief Finance Officer, requesting approval to proceed with the transfer;

or

(c) Where the estimated loss of income is £500,000 or more, the Director for Environment & Economy and the Chief Finance Officer must prepare a report to Cabinet, requesting its approval to proceed with the transfer.

45. Approval should be sought at a higher level in cases that are sensitive.
Acquisition of Land and Property

46. In respect of the acquisition of land and property where budget provision for an acquisition exists within the total Council budget, the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning may approve a purchase of land or property in accordance with approval levels specified in paragraph 19 above.

BUDGET MANAGEMENT ARRANGEMENTS

Full Council and the Cabinet

47. Key features of the Budget Management Arrangements are that:

- They are administered by the Chief Finance Officer; within procedures set by the Cabinet. Any variation from these procedures requires the approval of the Cabinet.
- The Cabinet recommends the overall budget annually to Full Council in accordance with the Budget and Policy Framework Procedure Rules. Once approved and finalised, Directors, Deputy Directors, Heads of Service and Budget holders are authorised to incur expenditure in accordance with the estimates that make up the budget.
- A budget head is considered to be a line in the approved budget report.
- Virement is the transfer of money from one revenue budget head to another and it does not create an increase in the overall budget for the Council. Directors are expected to operate within Virement Rules in managing their budgets and in consultation with the Chief Finance Officer. The Council, in accordance with the Budget and Policy Framework Procedure Rules, will determine the rules for virement each year, as part of the budget setting process.
- The Cabinet will receive regular monitoring reports containing comparison between budget and projected spend at year end.

Responsibilities of Chief Finance Officer

48. The Chief Finance Officer is required to prepare, monitor and operate the Budget Management Arrangements. The Chief Finance Officer will incorporate requests for virements included in directorate financial monitoring reports into the Cabinet financial monitoring report.

Responsibilities of Directors

49. Directors are required to operate the Budget Management Arrangements as detailed by the Chief Finance Officer and in accordance with guidelines approved by the Full Council.
ANNUAL STATEMENT OF ACCOUNTS

Committee Responsibility

50. The Audit & Governance Committee is responsible for approving the statutory annual Statement of Accounts. The Audit & Governance Committee is also required to monitor the progress of production of the Annual Statement of Accounts.

Responsibilities of Chief Finance Officer

51. The Chief Finance Officer is responsible for the preparation of the Council’s Statement of Accounts on behalf of the Council, in accordance with proper practices, for each financial year ending 31 March. In order to achieve this the Chief Finance Officer will select suitable accounting policies and ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year. The Chief Finance Officer is required to report to the Audit & Governance Committee where it appears likely that there will be an undue delay in producing the Statement of Accounts.

Responsibilities of Directors

52. Directors are required to comply with accounting guidance and instructions provided by the Chief Finance Officer and to supply the Chief Finance Officer with information when required.

OTHER ACCOUNTING RECORDS AND RETURNS

General

53. All Councillors, staff and agents of the Council must operate within the required accounting standards and timetables to ensure that all the Council’s transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.

Responsibilities of Chief Finance Officer

54. The Chief Finance Officer is required to determine the accounting procedures and form of records for the Council. If a Director wishes to maintain accounting records in a different way, he/she must first obtain permission to do so from the Chief Finance Officer. The Chief Finance Officer will specify the way in which transactions in any directorate system must be transferred to the Council’s corporate systems.
Responsibilities of Directors

55. Directors are required to comply with the principles outlined by the Chief Finance Officer.

MAINTENANCE OF GENERAL BALANCES, PROVISIONS AND RESERVES

Full Council

56. The Full Council must decide the level of general balances it wishes to maintain before it can decide the level of council tax. This will be done as part of the annual Service and Resource Planning process in accordance with the Budget and Policy Framework Procedure Rules.

Responsibilities of Chief Finance Officer

57. The Chief Finance Officer is required to advise the Cabinet and the Full Council on prudent levels of general balances for the Council. The Chief Finance Officer is required to consider requests for supplementary estimates from Directors and, where appropriate, take these to the Cabinet for approval in accordance with the limits set by Full Council.

Responsibilities of Directors

58. Directors are required to create provisions in accordance with the accounting policies set by the Chief Finance Officer. Directors are required to ensure that provisions and reserves are used only for the purposes for which they were intended. Where a provision is no longer required for the purpose for which it was set up it should be reversed. Use of reserves must be reported through the Financial Monitoring Report and the Provisional Outturn Report. Proposed changes in the use of a reserve and requests for new reserves must be approved by the Cabinet.

INTERNAL AUDIT

Council Responsibility

59. Regulation 6 of the Accounts and Audit Regulations 2011 requires the Council to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. The Audit & Governance Committee will monitor the work of Internal Audit Services as part of its responsibilities under Article 9 of this Constitution.
Responsibilities of Chief Finance Officer

60. The Chief Finance Officer is required to draw up the annual Audit Plan and ensure that this plan is delivered. Progress against the Plan will be reported to the Audit & Governance Committee.

61. The Chief Finance Officer is also required to issue and maintain procedures relating to the investigation of financial irregularities.

Responsibilities of Directors

62. Directors are required to:

- Ensure that Internal Audit Services are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work;
- Ensure that auditors are provided with any information and explanations that they seek in the course of their work;
- Consider and respond promptly to recommendations in audit reports;
- Ensure that suspected irregularities are dealt with as detailed in the procedures for investigating irregularities.

MANAGEMENT AND FINANCIAL CONTROL

Responsibilities of Chief Finance Officer

63. The Chief Finance Officer is required to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with the law.

Responsibilities of Directors

64. Directors are required to manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

EXTERNAL AUDIT REQUIREMENTS

65. The external auditor’s duties are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, Section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors should follow when carrying out their duties. The external auditor has rights of access to all documents and information necessary for audit purposes.
Responsibilities of Chief Finance Officer

66. The Chief Finance Officer is required to ensure there is effective liaison between external and internal audit. The Chief Finance Officer is also required to work with the external auditor and advise the Full Council and its Committees, the Cabinet and Directors on their responsibilities in relation to external audit.

Responsibilities of Directors

67. Directors are required to:

- Ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work;
- Ensure that all records and systems are up to date and available for inspection;
- Make staff available to provide information and answer questions as deemed necessary by the external auditor or his/her staff.

PREVENTING FRAUD AND CORRUPTION

Responsibility of Councillors

68. Councillors are required to act in accordance with the Councillors’ Code of Conduct in the Constitution.

Responsibilities of Chief Finance Officer

69. The Chief Finance Officer is required to:

- Develop and maintain an anti-fraud and corruption strategy;
- Maintain adequate and effective internal control arrangements;
- Monitor investigations to ensure that suspected irregularities are dealt with under the Procedure for Investigating Irregularities.

Responsibilities of Directors

70. Directors are required to ensure that all suspected irregularities are dealt with under the Procedure for Investigating Irregularities and reported to the Chief Finance Officer and the Monitoring Officer. Directors are also required to consider instigating the Council’s disciplinary procedures where the outcome of an investigation indicates improper behaviour.

Responsibilities of Officers

71. All officers must also act in accordance with the Officers’ Code of Conduct in the Constitution.
INSURANCE

Responsibilities of Chief Finance Officer

72. The Chief Finance Officer is required to effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Directors

73. Directors are required to:

- Ensure that there are regular reviews of risk within their directorates and to notify the Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances;
- Notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Finance Officer or the Council’s insurers.

ASSETS

The Cabinet

74. The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in discharging the Council’s functions, and that there are arrangements for the security of both assets and information required for service operations. The Cabinet is responsible for monitoring the use of assets.

Responsibilities of Chief Finance Officer

75. The Chief Finance Officer is required to:

- Receive the information required for accounting, costing and financial records from each Director;
- Ensure that asset valuations recorded in the Council’s accounts are in accordance with the legal and professional requirements.

Responsibilities of Directors

76. Directors are required to:

- Provide information to the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning to maintain a corporate property database;
Part 8.2 Financial Procedure Rules

Maintain other asset records as necessary to maintain databases of plant, machinery and moveable assets currently owned or used by the Council in connection with their responsibility area;

Maintain documentation identifying terms, responsibilities and duration of use where permission is given to use the asset for a purpose other than to discharge the Council’s functions;

Ensure the proper security of all buildings and other assets under their control;

Work with the Deputy Director for Environment & Economy – Strategy & Infrastructure Planning to review the cost, value and use of these assets and to investigate ways of improving value for money from these assets, on a regular basis.

TREASURY MANAGEMENT AND BANKING

Responsibility of the Cabinet

77. To approve and monitor the arrangements for Treasury Management.

Responsibilities of Chief Finance Officer

78. The Chief Finance Officer is required to:

- Undertake Treasury Management under arrangements approved by the Cabinet;
- Operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Chief Finance Officer.

Responsibilities of Directors

79. Directors are required to follow the instructions on banking issued by the Chief Finance Officer, under arrangements agreed by the Cabinet. These instructions include schools and other parts of the Council who operate their own bank accounts separately from the Council’s main account.

LOANS

80. This applies to all loans being made to organisations or individuals outside of the Treasury Management arrangements and any existing loan schemes such as Foster Carer loans and Chronically Sick & Disabled Persons Act loans.

Responsibilities of Chief Finance Officer

81. The Chief Finance Officer is required to issue guidance on the arrangements for entering into any new loans or loan schemes.
Responsibilities of Directors

82. Directors are required to follow the guidance issued by the Chief Finance Officer.

IMPREST ACCOUNTS

Responsibilities of Chief Finance Officer

83. Where appropriate, the Chief Finance Officer is required to provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to issue procedures for operating these accounts.

Responsibilities of Directors

84. Directors are required to ensure that employees operating an imprest account operate the account in accordance with procedures issued by the Chief Finance Officer.

TRUST FUNDS

Responsibilities of Chief Finance Officer

85. The Chief Finance Officer is required to provide appropriate guidance on the operation of Trust Funds.

Responsibilities of Directors

86. Directors are required to follow guidance from the Chief Finance Officer on the operation of Trust Funds.

FINANCIAL SYSTEMS AND PROCEDURES

Responsibilities of Chief Finance Officer

87. Under Article 9 of this Constitution, the Chief Finance Officer is responsible for making arrangements for the proper administration of the Council’s financial affairs. This will include the determination of the accounting systems, form of accounts and supporting financial records and approval of any new financial systems or changes to existing financial systems.
Responsibilities of Directors

88. Directors are required to:

- Follow guidance issued by the Chief Finance Officer in relation to financial systems;
- Ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained;
- Seek approval from the Chief Finance Officer before changing any existing system or introducing new systems.

INCOME AND EXPENDITURE

Responsibilities of the Cabinet

89. The Cabinet will approve the criteria for charging and how these are to be applied to the fees levied. Income collection will be monitored as part of the budget monitoring process.

90. For the purposes of the General Operational Powers of the County Director and Directors set out in Part 7.3 of the Constitution, the limit for the writing off of uncollectable debts (including bad debts) in any one case is £10,000. Over that limit, approval shall be required from the Cabinet.

Responsibilities of Chief Finance Officer

91. The Chief Finance Officer shall:

- Determine arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection;
- Consider for approval all debts to be written off in consultation with the relevant Director and ensure that the relevant Director keeps a record of all sums written off up to the approved limit;
- Consider all requests to write off irrecoverable sums or to not collect income due and report to the Cabinet as appropriate.

Responsibilities of Directors

92. Directors are required to operate the charging policy for the supply of goods or services, including the appropriate charging of VAT and to review it regularly, in line with corporate policies. Directors must also ensure a segregation of duties between staff with responsibility for identifying income (including the raising of invoices) and those with responsibility for the cash collection of the income.
BUYING GOODS, SERVICES AND WORKS

93. All Councillors, officers and agents of the Council are required to operate within the Contract Procedure Rules with respect to contracts for the supply of goods, services and works and for the execution of works elsewhere within the Constitution.

94. Orders and payments should normally be made electronically but the Chief Finance Officer may approve an alternative form and manner, if this is beneficial to the Council.

Responsibilities of Chief Finance Officer

95. The Chief Finance Officer is required to ensure that all the Council’s financial systems and procedures are sound and properly administered. The Chief Finance Officer is also required to approve the form and manner for orders, payments and associated terms and conditions.

Responsibilities of Directors

96. Directors are required to ensure that orders are only made for goods, services and contracts for works provided to directorates. Councillors, officers and agents of the Council must not make official orders to obtain goods or services for their private use. Councillors, officers and agents of the Council must also follow guidance issued by the Chief Finance Officer in relation to orders and payments for goods, services and contracts for works.

STAFFING

Responsibilities of Chief Finance Officer

97. The Chief Finance Officer is required to act as an advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.

Responsibilities of Directors

98. Directors are required to ensure that budget provision exists for all existing and new employees.

PAYMENTS TO EMPLOYEES AND COUNCILLORS

Responsibilities of Chief Finance Officer

99. The Chief Finance Officer is required to:

- Establish and maintain an effective system for ensuring the payments for salaries and staff related sums are paid to existing and former employees on the due date;
• Record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions;
• Maintain a similar system for the payment of Councillors allowances as set out in the Constitution.

Responsibilities of Directors

100. Directors are required to notify the Chief Finance Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Chief Finance Officer. Directors must also ensure that adequate and effective systems and procedures are operated to ensure that any information which may affect payment to an employee or councillor, is captured and reported to the Chief Finance Officer.

TAXATION

Responsibilities of Chief Finance Officer

101. The Chief Finance Officer is required to ensure that all taxation issues relating to the Council, including HM Revenue and Customs, are properly maintained. The Chief Finance Officer is also required to provide up-to-date guidance for Council employees on taxation issues.

Responsibilities of Directors

102. Directors are required to follow the guidance on taxation issued by the Chief Finance Officer in the Council’s Taxation and VAT manuals.

TRADING ACCOUNTS AND BUSINESS UNITS

Responsibilities of Chief Finance Officer

103. The Chief Finance Officer is required to advise on the establishment and operation of trading accounts and business units.

Responsibilities of Directors

104. Directors are required to consult with the Chief Finance Officer if 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. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
PARTNERSHIPS

Responsibilities of the Cabinet

105. The Cabinet is required to agree with partners the formation of any strategic partnerships for the County. The Cabinet is required to monitor the governance and performance of all partnerships to ensure that these partnerships are improving the well being and outcomes for local people in the County and do not subject the Council to undue risk. The Cabinet is required to ensure that any partnership has clear operational procedures as set out in the partnership agreement which maintains the highest standards of ethics and probity.

Responsibilities of Chief Finance Officer

106. The Chief Finance Officer is required to advise on effective controls that will ensure that resources are not wasted.

Responsibilities of Directors

107. Directors are required to ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Chief Finance Officer. Directors are also required to ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council, especially when discharging its functions.

EXTERNAL FUNDING

Responsibilities of Chief Finance Officer

108. The Chief Finance Officer is responsible for:-

- Working with directors to maintain a record of external funding that is expected and its financial implications;
- Building any agreed financial implications of external funding into the budget. (For example agreed requirements to provide matching funding);
- Monitoring external funding and its related financial implications;
- Ensuring that all funding notified by external bodies is received and properly recorded in the Council’s accounts;
- Accounting for any non-specific Government Grants received and receivable and submitting any returns that they require; and
- Investigating ways of maximising income from external funding.
Responsibilities of Directors

109. Directors are required to follow the guidance issued by the Chief Finance Officer, and must ensure that:

- External funding which is sought supports the Council's overall aims, objectives, priorities and plans;
- Any additional costs or matched funding requirements relating to external funding agreements are identified and provided for in the budget before any external funding agreement is concluded;
- There is an exit strategy to assess the impact of external funding ending, particularly if demand for the services produced is likely to continue;
- Bids for external funding are approved by either the Cabinet portfolio holder for Finance or the Deputy Leader;
- Conditions of external funding agreements and any statutory requirements are complied with;
- Expenditure met from external funding is properly incurred and recorded and that all claims for funds (Grant Claims) are made by the due date;
- Specific Government grants received and receivable in respect of the services for which they are responsible are accounted for; and
- Audit requirements are met.

WORK FOR THIRD PARTIES

Responsibilities of Chief Finance Officer

110. The Chief Finance Officer is required to issue guidance with regard to the financial aspects of third party contracts to work for third parties.

Responsibilities of Directors

111. Directors are required to make appropriate arrangements for keeping officers and councillors informed about any proposed negotiations about working for third parties. Cabinet approval must be obtained before any negotiations are concluded about working for third parties. Directors are also required to follow guidance on this subject issued by the Chief Finance Officer. Directors must maintain a list of their contracts to work for third parties.

GRANTS TO EXTERNAL BODIES

Responsibilities of Chief Finance Officer

112. The Chief Finance Officer is required to issue guidance with regard to the financial aspects of grant funding. The Chief Finance Officer is required to issue guidance about the register of grants.
Responsibilities of Directors

113. Directors are required to maintain a register of grants for their services. Directors are required to consider whether funding arrangements should be by grant or by procurement of services and make an appropriate decision following guidance about this issue.

ACTING AS AN ACCOUNTABLE BODY

114. The Council may decide to act as an ‘Accountable body’ for an unincorporated partnership. An ‘Accountable body’ is a legal entity nominated to act on behalf of the partnership. As an ‘Accountable body’, the Council would take responsibility for receipt and financial probity of external funding on behalf of the partnership and ensure the proper and effective use of those funds.

Responsibilities of Chief Finance Officer and Directors

115. The decision to act as the Accountable body for another organisation will be taken by:

- Cabinet, when the amount involved is likely to be £1m or more over the life of the relationship. Cabinet will make this decision based on advice from the Chief Finance Officer who may consult with an appropriate Director. Cabinet could refer the decision to full Council if they considered that this was appropriate; or

- The Chief Finance Officer, when the amount is likely to be less than £1m over the life of the relationship. The Chief Finance Officer would consult with an appropriate Director if appropriate. The Chief Finance Officer could refer the decision to Cabinet if they considered that this was appropriate.

116. Where the Council acts as an Accountable body, a formal agreement (memorandum of understanding) will be required, setting out the operational protocols between the Council and the partnership.

117. The Chief Finance Officer is required to issue guidance with regard to the Council acting as an Accountable body.

118. The Chief Finance Officer and the appropriate service Director will as appropriate report to Cabinet on the progress and outcome of the Accountable body relationship.
RISK MANAGEMENT AND FINANCIAL CONTROL

Council Responsibility

119. The Audit & Governance Committee will monitor the Council’s governance and risk management arrangements as part of its responsibilities under Article 9 of the Constitution.

Cabinet Responsibility

120. The Cabinet is responsible for approving the Council’s risk management framework and for reviewing the effectiveness of risk management.

Responsibilities of Chief Finance Officer

121. The Chief Finance Officer is required to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with the law.

122. The Chief Finance Officer is required to prepare the Council’s risk management framework, for approval by the Cabinet.

123. The Chief Finance Officer is also required to issue and maintain procedures relating to risk management.

Responsibilities of Directors

124. Directors are required to take responsibility for risk management and to undertake risk management assessments as detailed in the risk management framework and other guidance issued by the Chief Finance Officer.

125. Directors are also required to:

(a) Undertake a risk assessment when planning strategically, undertaking major change initiatives, organising large projects such as capital projects, developing new partnership arrangements or carrying out service reviews.

(b) Monitor the progress of identified risks and subsequent risk management actions. Periodically repeat the risk identification and assessment process, ensuring that planned action is in place to mitigate these risks.

(c) Notify the Chief Finance Officer immediately of any major risks that are identified and cannot be managed within the resource levels of the service.
(d) Raise the awareness and understanding of risk management down the ranks of the authority through training and regular use of risk management techniques in decision making.
OXFORDSHIRE COUNTY COUNCIL

CONTRACT PROCEDURE RULES
# Contract Procedure Rules

for the Supply of Goods, Services and Works

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Contract Procedure Rules
for the Supply of Goods, Services and Works

CHAPTER ONE: INTRODUCTION

1. Compliance with these Rules, Council Policies, Relevant Legislation and Legal Requirements

What these Rules apply to

1.1 These Rules apply to all contracts for the provision of goods, services and works to the Council unless otherwise specified in these Rules.¹

1.2 A contract is an agreement which:

(i) may be oral, written, partly oral and partly written or implied from conduct between the Council and another person;

(ii) gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and

(iii) commits the Council to paying or doing something.

1.3 These Rules apply to Framework Agreements. A Framework Agreement is a contract with a supplier or suppliers which establishes the terms and conditions (in particular as to price) under which orders/individual contracts can be made during the length of the Framework Agreement. This includes government pre-negotiated contracts. The individual orders made/contracts entered into under Framework Agreements are known as Call-Off Contracts and Rule 19.1 sets out the application of these Rules to Call-Off Contracts.

1.4 An extension or variation to a contract may itself be a contract for the purposes of these Rules (see Rule 17).

What contracts must comply with

1.5 All contracts must comply with all of the following:

(i) EU law;

(ii) English law (including the Council’s statutory duties and powers including the Council’s fiduciary duty to safeguard public funds);

(iii) these Rules and the Financial Procedure Rules;

¹ See in particular Rules 1.12 and 1.13
(iv) any relevant Council policies; and
(v) any legal requirement stipulated by the Director of Law & Governance.

1.6 All contracts must comply with all of the following principles of EU law:

(i) free movement of goods and services;
(ii) non-discrimination;
(iii) openness/transparency;
(iv) equal treatment for all; and
(v) proportionality.

1.7 Where a contract requires the tender procedure to be carried out under European Union public procurement legislation (an "EU Tender"), additional rules applying to such tender procedures must be complied with. The Relevant Procurement Team should be consulted for advice.

1.8 These Rules must be complied with by all officers of the Council and all other persons who are authorised to carry out procurement and contracting on behalf of the Council (such as the Council’s agents for property services) (“Agents”). It must be a term of all contracts between the Council and its Agents that the Agents comply with these Rules.

1.9 The intention of the Rules must be adhered to.

1.10 These Rules must be read in conjunction with the Procurement Strategy and the Procurement Toolkit which provide guidance on compliance with these Rules.

1.11 Any non-compliance with these Rules should be dealt with in accordance with Rule 21.

When these Rules do not apply

1.12 These Rules do not apply to:

(i) contracts which are not for the provision of goods, services or works (e.g. grants or contracts relating to land). Note, therefore, that these Rules do not apply to contracts of employment but they do apply to consultancy contracts which are contracts for services.
Part 8.3 Contract Procedure Rules

(ii) contracts entered into by schools with delegated budgets (which should instead be awarded in accordance with the Scheme for Financing Schools).

(iii) low value purchases which may be made from petty cash or procurement cards provided that they are in accordance with any operational instructions and financial limits issued by the Officer.

1.13 Certain Rules on tendering do not apply in certain situations or to certain specific contracts. Authorised Officers should refer to Rules 18 and 19 for details.

1.14 In exceptional circumstances, exemptions to these Rules may be granted. Authorised Officers should refer to Rule 20 for details.

2. Where to get advice

2.1 Officers requiring advice on procurement practice and EU requirements should contact their Relevant Procurement Team, being:
(i) their Directorate Procurement Team;
(ii) the Joint Commissioning Team; or
(iii) the Corporate Procurement Team.

2.2 Officers requiring contracts, terms and conditions or legal advice should contact Legal Services.

2.3 Officers are also referred to the Annex to these Rules which lists useful documents and policies.

CHAPTER TWO: PRE-PROCUREMENT

3. Pre-Tender Authorisations and Requirements

3.1 Authorised Officers must ensure, before entering into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works be it capital or revenue, that:

(i) where it is a key decision, the requirements of Part 2, Article 12, Section 3(b) of the Constitution have been complied with;

(ii) adequate financial provision is included in the Council’s approved revenue budget or capital programme (as appropriate) and that such expenditure continues to be available in accordance with the Financial Procedure Rules;

2 A decision taker may only take a key decision in accordance with the requirements of the Cabinet Procedure Rules and Access to Information Rules in the Constitution. This section sets out further details of what a Key Decision is and what is required.

4 August 2017 8-44
(iii) the provisions of the Financial Procedure Rules have been complied with; and written authorisation has been obtained in accordance with the following two tables (unless authorisation has been obtained under the Financial Procedure Rules)\(^3\):

**Table 1 Goods and Services**

<table>
<thead>
<tr>
<th>Cumulative expenditure per contract</th>
<th>Authorisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to but not exceeding £200,000</td>
<td>Authorised Officers in accordance with their delegated financial limits</td>
</tr>
<tr>
<td>Above £200,000 but not exceeding £500,000</td>
<td>Director and Authorised Officers in accordance with their delegated financial limits</td>
</tr>
<tr>
<td>£500,000 and above</td>
<td>Director and s151 Officer</td>
</tr>
</tbody>
</table>

**Table 2 Works**

<table>
<thead>
<tr>
<th>Cumulative expenditure per contract</th>
<th>Authorisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to but not exceeding £500,000</td>
<td>Authorised Officers in accordance with their delegated financial limits</td>
</tr>
<tr>
<td>Above £500,000 but not exceeding £2,000,000</td>
<td>Director</td>
</tr>
<tr>
<td>£2,000,000 and above</td>
<td>Director and s151 Officer</td>
</tr>
</tbody>
</table>

(iv) in relation to the supply of goods or services, a Gateway 2 (Business case) report has been approved by the Gateway Review Panel if total expenditure to exceed £100,000.

(v) they have considered whether any consultation requirements apply, including whether the Public Services (Social Value) Act 2012 applies to any services, and have complied with any such requirements.

3.2 The Relevant Procurement Team and Legal Services must be notified before officers enter into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works, where:

(i) the estimated value of the proposed contract is £25,000 or more; or

---

\(^3\) See Rule 4 for details of establishing the value of a contract and see Rule 22 for details of Schemes of Delegation and note that “Director” and “S151 Officer” includes any officer to whom the Director and S151 Officer may have delegated their function pursuant to the relevant Scheme of Delegation (see Rules 23.2 and 23.7)
(ii) the proposed contract is for the benefit of two or more directorates or parties; or

(iii) a Call-off Contract will be entered into which is either complicated or involves new terms (e.g. an outsourcing involving a TUPE transfer of Council staff not contemplated in the framework)\(^4\). In addition, the Relevant Procurement Team must be consulted where any Call-off Contract will be entered into using a third party framework; or

(iv) the contract is considered complex, sensitive or high-risk for any other reason.

### 3.3
The Pension Services Manager and the County Human Resources Manager must be notified before officers enter into any process which:

(i) will or may result in any transfers of staff under the Transfer of Undertakings (Protection of Employment) Regulations ("TUPE") where any of the staff are or were previously Council employees; or

(ii) will or may result in any transfers of staff under TUPE who are members of the Council’s Pension Scheme.

### 3.4
The Deputy Director – Commercial Team E&E as Corporate Landlord must be notified before officers enter into any process which will or may result (a) in a contract that confers exclusive possession of the Council’s premises or (b) in the acquisition by the Council of a property interest.

### 3.5
The ICT Information Services Manager must be notified before officers enter into any process which involves the purchase of IT products or services that are not listed in the ICT Service Catalogue in order to address any potential data security implications for the Council.

### 3.6
The Authorised Officer will undertake an appropriate risk assessment before entering into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works to determine whether there are, or may be, financial, reputational, legal or other risks posed by the proposed contract.

### 3.7
Where there is a corporate contract (i.e. a contract for the benefit of the Council as a whole) for the supply of goods, services or works, no other contract may be used for the supply of those goods, services or works unless this has been authorised in advance in writing by the Chief Finance Officer and/or the Corporate Procurement.

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\(^4\) See Rule 19.1 for the application of these Rules to Call-Off contracts generally
3.8 Authorised Officers must keep and maintain records in respect of each contract (from the time the procurement process begins until the point at which the contract ends) in order to demonstrate the achievement of value for money, openness, probity and compliance with these Rules including EU law.

4. Establishing the Value of the Contract/Expenditure per Contract

4.1 The value of a contract (that is, the expenditure per contract) means the actual or estimated amount payable by the Council to the supplier for the goods, services or works (excluding VAT) over the entire possible length of the contract (including, if the contract confers an option to extend, with the exercise of that option, e.g. a three-year contract with an option to extend for two years under which £20,000 is payable per annum has a value of £100,000).

4.2 The value of a Framework Agreement means the estimated amount payable by the users of the framework for the goods, services or works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the framework.

4.3 Contracts must not be split into smaller contracts in order to avoid any of these Rules.

4.4 For contracts of an indefinite length the value must be established on the basis that the contract will last for a period of 48 months. See also Rule 9.2.

4.5 Where the award of a contract to a particular supplier creates circumstances where any reasonably foreseeable future additional work could only be awarded to the same supplier (e.g. because of the supplier’s ownership or exclusive rights in relation to a product or service) the value of the contract for the purpose of this Rule 4 should include the likely value of such additional work.

CHAPTER THREE: THE PROCUREMENT PROCESS

5. Best Value – Competitive Quotes and Tenders

5.1 For contracts worth less than £25,000, Authorised Officers must take practicable steps to secure value for money through a combination of cost and quality by clearly defining the business requirement and seeking offers at the lowest cost commensurate with meeting that business requirement.
5.2 For contracts worth £25,000 or more, Authorised Officers must take practicable steps to secure value for money through a combination of cost, quality and competition. Competitive quotations or tenders must be sought as shown in the following table, and in accordance with advice from the Relevant Procurement Team:

Table 3 Goods, Services and Works

<table>
<thead>
<tr>
<th>Estimated cumulative expenditure per contract</th>
<th>Competition</th>
</tr>
</thead>
<tbody>
<tr>
<td>£25,000 or above but less than £75,000 (Quotations)</td>
<td>Authorised Officers must ensure genuine competition by inviting sufficient numbers of persons (good practice indicates a minimum of 3 selected impartially) to submit written quotations for the goods, services or works required by the Council. Some degree of advertising may be required and where the Contract is advertised, it must also be advertised on Contracts Finder in accordance with advice from the Relevant Procurement Team.</td>
</tr>
<tr>
<td>£75,000 or above but less than the relevant EU directive threshold. (Tenders)</td>
<td>Authorised Officers must ensure genuine competition by inviting sufficient numbers of persons (in normal circumstances EU rules require at least 5 and non-EU good practice indicates a minimum of 3 selected impartially) to submit tenders for the goods, services or works required by the Council. Contracts must be advertised on Contracts Finder and the South East Portal and/or elsewhere if appropriate in accordance with advice from the Relevant Procurement Team.</td>
</tr>
<tr>
<td>Equal to or exceeding the relevant EU directive threshold</td>
<td>There are six different award procedures for EU Tenders and different requirements for certain social and other specified services.</td>
</tr>
</tbody>
</table>

5.3 Where the total value of:

(i) a Contract;

(ii) all contracts to meet a single requirement for goods or services; or
(iii) all successive contracts of the same type\(^5\)

is equal to or exceeds the values below, the Authorised Officer shall contact their Relevant Procurement Team to establish whether the relevant EU directive threshold has been met or exceeded\(^6\).

(i) £164,176 for goods and services;

(ii) £4,104,394 for works.

5.4 Call-off Contracts must be entered into in accordance with the terms of the relevant Framework Agreement and a mini-competition (the tender process required by the Framework Agreement) must be held where relevant. Where a Framework Agreement has been set up following an EU Tender, there must be full compliance with EU rules when awarding Call-off Contracts under it.

6. Pre-Qualification Requirements/Minimum Standards for Suppliers

6.1 Authorised Officers are responsible for ensuring that all persons awarded Contracts for the supply of goods, services or works to the Council have met the Council’s minimum standards of suitability, capability, legal status and financial standing as advised by the Relevant Procurement Team.

6.2 Where the Contract is not subject to an EU Tender, Authorised Officers must not carry out a separate pre-qualification stage unless approved by the Relevant Procurement Team.

7. Invitations to Tender

7.1 An invitation to tender/request for quotation must be sent out for all procurement processes listed in Table 3.

7.2 All invitations to tender must:

(i) clearly specify the goods, services or works that are required (subject to appropriate adjustment where the negotiated, competitive procedure with negotiation or competitive dialogue procedure is being used);

\(^5\) Authorised Officers should consult the Relevant Procurement Team for advice on calculating this amount.

\(^6\) These are the basic EU threshold values which apply from 1 January 2016 to 31 December 2017, however, the full EU rules are not applicable in the same way to all contracts (for example, there is a higher threshold for certain social and other specified services) and therefore advice must be taken. After 31 December 2017, the Relevant Procurement Team must be consulted to establish the updated values.
(ii) list the criteria on which the tender(s) will be evaluated (see Rule 8) showing the weighting of the various evaluation criteria unless otherwise advised by the Relevant Procurement Team and Legal Services;

(iii) include a requirement for tenderers to declare that the tender content, price and all other figures or particulars concerning the tender have not been disclosed by the tenderer to any other party (see guidance on pro formas for use as set out in the *Procurement Toolkit*);

(iv) include a requirement for tenderers to complete fully and sign all tender documents including certificates confirming that no canvassing or collusion has taken place; and

(v) state that the contract will be on the Council’s conditions of contract which are to be enclosed with the invitation to tender.

7.3 The list of requirements in Rule 7.2 is not exhaustive and any and all additional requirements of the Relevant Procurement Team must also be met. Further guidance is available in the *Procurement Toolkit*.

8. Evaluation Criteria

8.1 In determining the relevant evaluation criteria on which quotations and tenders are to be assessed, Authorised Officers, in consultation with their Relevant Procurement Team where appropriate, must consider all factors relevant to their requirement, including environmental and social considerations, so far as this is lawful.

8.2 The evaluation process must clearly demonstrate that the Council is seeking to identify the quotation or tender which offers the best value for money (see Rule 5).

9. Terms and Conditions of Contracts

9.1 Terms and conditions for all contracts for goods, services and works with a value of £25,000 or more (and preferably all other contracts, particularly consultancy contracts to ensure that all intellectual property rights are transferred to the Council and no employee or worker rights are acquired by the consultant) must be in accordance with terms and conditions prepared or approved by the Director of Law & Governance unless otherwise agreed by the Director of Law & Governance.

9.2 Any contract of less than £25,000 which is of indefinite duration must be in accordance with any terms and conditions prepared or approved by the Director of Law & Governance so as to ensure that the termination provisions are satisfactory.
9.3 All written contracts (whatever their value) shall require that:

(i) any payment due from the Council is made no later than 30 days from the date on which the relevant invoice is regarded as valid and undisputed;

(ii) any invoices submitted by the contractor are considered and verified by the Council in a timely fashion and undue delay in doing so is not to be regarded as sufficient justification for failing to treat an invoice as valid and undisputed;

(iii) any subcontract imposes obligations similar to those which (i) and (ii) require and an obligation that the subcontractor is required to impose such obligations in any further subcontract.

9.4 All contracts with a value of £25,000 or more must include a clause empowering the Council to terminate the contract for bribery or corruption and to recover from the supplier the amount of any loss resulting from such termination in a form approved by the Director of Law & Governance.

9.5 The relevant Authorised Officer shall ensure that all contracts with a value of £75,000 or more are allocated to a named contract manager who is responsible for managing the contract during the whole life of the contract (including arrangements for replacement, where applicable, at the end of the contract life).

9.6 All contracts requiring an EU Tender must contain the termination provisions required by the Public Contracts Regulations 2015 in a form approved by the Director of Law & Governance.

9.7 Save as set out in Rules 14.5 – 14.7 and 15.2, all contracts with a value of £500,000 or more and any other contract requiring the additional limitation period of 12 years rather than 6 years for court proceedings in the event of default must be drafted as a deed. This is particularly relevant to construction contracts in the case of latent defects.

9.8 Framework Agreements must not be entered into for more than four years (including options to extend) unless otherwise advised by the Director of Law & Governance and the Relevant Procurement Team.

10. Receipt of Tenders (including under Framework Agreements) and Opening of Tenders

10.1 Authorised Officers must comply with the Council’s Procedures for Receipt and Opening of Tenders.

10.2 Where paper tenders are obtained, the Authorised Officer must comply with requirements specified by the Relevant Procurement Team.
10.3 All tenders received, including those in mini-competitions under Framework Agreements, must remain unopened and be kept secured until the specified closing date and time for receipt of tenders has passed.

10.4 Electronic tenders, including those in mini-competitions under Framework Agreements, must be delivered to a secure electronic system owned or operated on behalf of the Council.

11. Evaluation of Tenders

11.1 Authorised Officers must ensure that appropriate directorate or other Council technical and financial officers evaluate all tenders, including those in mini-competitions under Framework Agreements, in accordance with the evaluation criteria specified in the invitation to tender.

11.2 The arithmetic in compliant tenders, including those in mini-competitions under Framework Agreements, must be checked. If arithmetical or clerical errors are found they should be notified to the tenderer, which should be requested to confirm the correct figures/wording or withdraw its tender.

11.3 Authorised Officers must compare submitted tender prices with any project appraisal or pre-tender estimates. All differentials must be considered. For tender prices of £75,000 or more where the differential is more than:

(i) 20% above or below the project appraisal or pre-tender estimate, this must be reported to the Director; and

(ii) 50% above or below the project appraisal or pre-tender estimate, this must be reported to the Director and the s151 Officer.

11.4 In cases as set out in Rule 11.3 for goods and services, a tender must not be accepted unless this has been authorised by the Director or the Director and the s151 Officer (as applicable). For capital expenditure authorisation of acceptance of variations must be in accordance with the Financial Procedure Rules.

12. No Material Changes to Contract Post-Tender

No material changes must be made to the proposed arrangements and terms and conditions post tender. See Rule 17 for requirements when the contract has been entered into.
CHAPTER FOUR: CONTRACT AWARD

13. Authorisation for the Award of Contracts

13.1 Contracts may only be awarded by the Council if there has been full compliance with these Rules and the Financial Procedure Rules.

13.2 Tenders may be evaluated and recommended for acceptance as follows:

Table 4 Goods and Services

<table>
<thead>
<tr>
<th>Cumulative value of contract</th>
<th>Acceptance by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tender not exceeding £200,000</td>
<td>Authorised Officers in accordance with their delegated financial limits</td>
</tr>
<tr>
<td>Above £200,000 but not exceeding £500,000</td>
<td>Director</td>
</tr>
<tr>
<td>£500,000 and above</td>
<td>Director and s151 Officer</td>
</tr>
</tbody>
</table>

Table 5 Works

<table>
<thead>
<tr>
<th>Cumulative value of tender</th>
<th>Acceptance by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tender not exceeding £500,000</td>
<td>Authorised Officers in accordance with their delegated financial limits</td>
</tr>
<tr>
<td>Above £500,000 but not exceeding £2,000,000</td>
<td>Director</td>
</tr>
<tr>
<td>£2,000,000 and above</td>
<td>Director and s151 Officer</td>
</tr>
</tbody>
</table>

13.3 No tender can be accepted or contract awarded unless this is on the basis of the evaluation criteria sent out with the invitation to tender.

13.4 Where a key decision was required to authorise the entering into of the procurement process under Rule 3, the contract must not be awarded unless that decision has been complied with (for example, a new decision may be required prior to award or the risk factors may have changed).

13.5 Where a key decision was not required to authorise the entering into of the procurement process under Rule 3 but due to the price of the winning bid it has become a key decision, the requirements of Part 2, Article 12, Section 3(b) of the Constitution must be complied with before the contract is awarded.

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Note that “Director” and “S151 Officer” includes any officer to whom the Director and S151 Officer may have delegated their function pursuant to the relevant Scheme of Delegation (see Rules 23.2 and 23.7)
14. Procedure for Award of Contracts

14.1 Successful and unsuccessful tenderers (and, for EU Tenders, those persons who expressed an interest in the contract unless they have already been rejected and have been informed of that rejection and the reasons for it) must be notified of the award of the contract for which they have submitted a tender. This notification letter must be in a form approved by the Relevant Procurement Team (see guidance in the Procurement Toolkit).

14.2 Where there has been an EU Tender, and in such other circumstances as the Director of Law & Governance may advise, the award of the contract must be subject to the legally-required standstill period to enable unsuccessful bidders to challenge the award prior to completion of the contract. Where there is a court challenge prior to completion of the contract then the contract must not be completed without the authorisation of the Director of Law & Governance, S151 Officer, the Relevant Procurement Team and the relevant Director.

14.3 All contracts with a value of £25,000 or more must be in writing and all other contracts should be in writing.

14.4 In relation to contracts for goods or services, if total expenditure is anticipated to be over £100,000, a contract should not be awarded unless a Pre-Award Evaluation Report (Gate 3 report) has been submitted to the Gateway Review Panel and subsequently approved to proceed to Gate 4 and implementation.

Contracts which are not Call-off Contracts

14.5 Save as set out in Rule 15.2, contracts must be signed or sealed as follows (for the avoidance of doubt no elected or co-opted Member of the Council may sign any contract for or on behalf of the Council):

Table 6 Goods, Services and Works

<table>
<thead>
<tr>
<th>Cumulative value of contract</th>
<th>Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than £25,000</td>
<td>Signed by one Authorised Officer in accordance with their delegated financial limit.</td>
</tr>
<tr>
<td>From £25,000 up to and including £200,000</td>
<td>Signed by Authorised Officers in accordance with their delegated financial limits, and one other officer designated by the Director under the directorate’s Scheme of Delegation.</td>
</tr>
</tbody>
</table>
Cumulative value of contract | Execution
--- | ---
Above £200,000, but less than £500,000. | Signed by the Director and s151 Officer.
£500,000 or more | Sealed by the Director of Law & Governance on behalf of the Council on the instructions of the Director and s151 Officer.

**Call-off Contracts**

14.6 *Council Framework Agreement with no new terms:* Where a Call-off Contract is entered into under a Framework Agreement which has been set up by the Council and no new terms are being introduced (e.g. under a mini-competition), the Call-off Contract does not have to be signed or sealed (unless required in accordance with the terms of the Framework Agreement) BUT the Call-off Contract must be authorised as set out in Rule 3 and under the directorate’s Financial Scheme of Delegation and orders made in accordance with the applicable finance procurement procedures.

14.7 *Council Framework Agreement with new terms:* Where a Call-off Contract is entered into under a Framework Agreement which has been set up by the Council and new terms have been introduced (e.g. following a mini-competition), the Call-off Contract must be signed or sealed as set out in Rule 14.4 unless otherwise agreed by the Director of Law & Governance.

14.8 *Third Party Framework Agreements:* Where a Call-off Contract is entered into under a Framework Agreement which has been set up by a third party, the Call-off Contract must be signed or sealed as set out in Rule 14.5 unless otherwise agreed by the Director of Law & Governance.

14.9 For the avoidance of doubt, all Framework Agreements and subsequent Call-off Contracts are subject to prior review and approval via the Gateway Review Panel if anticipated total contract value (in the case of the Framework Agreement) or individual call-off value (in the case of the Call-off Contract) is over £100,000.

**All contracts**

14.10 In relation to contracts with a total value between £5,000 and £25,000, Authorised Officers must inform the Relevant Procurement Team of all contracts (including Call-off Contracts) awarded promptly (and preferably within 5 working days of the date of the award) so that the:

(i) details of the contract can be added to the Council’s contracts register on the South East Business Portal;

(ii) Central Buying Team can publish details of the contract award on Contracts Finder; and
(iii) Central Buying Team has the necessary information to comply with the law, for the annual statistical return to central government and to report to the government and the European Commission.

14.11 For EU tenders, a legally compliant award notice must be published.

15. **Commencement of Contracts**

No supply of goods, services or works must commence until all contract documentation is duly completed (see Rule 14) and, in the case of contracts for goods or services with a total planned expenditure over £100,000, agreement to proceed through the relevant Gate implementation has been given by the Gateway Review Panel, except:

15.1 in cases of emergency falling under Rule 19.2, in which case the contract documentation must be completed at the earliest opportunity;

15.2 where there has been a tender for works (but not goods or services) and the contract price only holds good for a limited period or there is some other circumstance beyond the Council’s control delaying completion of formal contract documentation. In that case a contract may be formed by letter (which records all the provisions of the contract and is signed in accordance with the relevant Scheme of Delegation) and formal contract documentation must be completed at the earliest opportunity and signed or sealed as appropriate depending on its value. This procedure must not be used if there are any outstanding or unresolved contract provisions unless this is agreed by the Director of Law & Governance; or

15.3 where otherwise approved by the Director of Law & Governance.

**CHAPTER FIVE: POST-AWARD**

16. **Contract and Risk Management**

16.1 The Contract Manager must maintain a risk register during the contract period highlighting the risk and mitigation strategy for the contract and, for identified risks, must ensure contingency or risk mitigation measures are in place.

17. **Extensions and Variations of Contracts**

**Extensions**

17.1 Where an Authorised Officer wishes to exercise an option set out in a contract to extend that contract, this must be referred to the Relevant Procurement Team and Legal Services for advice and, where the anticipated value of the extension is over £100,000, will be subject to prior review and approval via the Gateway Review Panel. Any notice
exercising an extension option must be given in accordance with the contract terms and in writing but will not require the agreement of the provider if the option is at the Council’s sole discretion.

17.2 Where an Authorised Officer wishes to extend a contract (where Rule 17.1 does not apply) the extension constitutes a new contract and is subject to these Rules (e.g. a proposed extension (to which Rule 17.1 does not apply) for a value in excess of £25,000 requires an exemption unless Rule 18 or 19 applies).

**Variations**

17.3 Where an Authorised Officer wishes to vary a contract (e.g. change the price, buy additional services, or replace the provider), this must be referred to the Relevant Procurement Team and Legal Services for advice to establish whether the proposed variation is material. If a variation is material, it is a new contract for the purposes of these Rules.

17.4 Where a proposed variation is not material, or where it is material but it is established with advice from the Relevant Procurement Team and Legal Services that a competitive process does not need to be followed, the Authorised Officer shall comply with Rule 3.1 and Rule 17.6.

17.5 Where a variation is proposed to settle a contractual dispute the Authorised Officer, the Relevant Procurement Team, the Director of Law & Governance and the relevant Director must certify that it is in the best interests of the Council.

17.6 The Authorised Officer shall ensure that all variations are (a) in writing, (b) in accordance with the terms of the contract; and (c) signed by authorised signatories of both (or all) parties.

**CHAPTER SIX: GENERAL**

18. **Contracts to which Rules on Tendering (Rules 5 – 8 and 10 - 12) do not apply – Service Specific**

Competitive quotes or tenders are not required for the following:

18.1 **Director of Law & Governance**: contracts for the engagement of Counsel.

18.2 **Transport**: subsidised bus contracts not caught by Rule 5.3 and identified as meeting the de minimis requirements in the Service Subsidy Agreements (Tendering) (England) (Amendment) Regulations 2004 which must instead follow guidance issued by the Department for Transport, currently the “Guidance on New De Minimis Rules for Bus Subsidy Contracts”.
18.3 **Children, Education & Families, Social & Community Services and Public Health Services:** contracts for the provision of children’s services (including the provision of accommodation for children) (CEF), social care contracts for services (S&CS) and public health services which may instead follow the *Children, Education & Families, Social & Community Services and Public Health Services Joint Commissioning/Procurement Procedures* prepared by the Director for Adult Social Services in consultation with the Director of Law & Governance, the s151 Officer and the Principal Procurement Manager – Joint Commissioning).

18.4 The exceptions in Rules 18.1 to 18.3 (inclusive) do not apply where the proposed course of action conflicts with EU public procurement legislation.

18.5 The rest of these Rules must still be complied with.

19. **Contracts to which Rules on Tendering (Rules 5 – 8 and 10 -12) do not apply – General**

Competitive quotes or tenders are not required for the following:

19.1 **Call-off Contracts**

Call-off Contracts where the relevant Framework Agreement has been entered into by:

(i) the Council in compliance with these Rules; or

(ii) another local authority, a local authority purchasing consortium or central government where the Framework Agreement has been tendered and awarded in accordance with EU public procurement legislation.

Rules 5.4 and 9 – 12 apply to mini-competitions and, for the avoidance of doubt, Call-off Contracts must be entered into in accordance with the terms of the Framework Agreement (e.g. selection by mini-competition) and mini-competitions under Framework Agreements must be run in accordance with Rule 1.6.

For the avoidance of doubt, all Call-Off Contracts with a value over £100,000 will be subject to review by the Gateway Review Panel.

19.2 **Emergency**

19.2.1 In cases of emergency, a Director may verbally authorise and record in writing an exemption from these Rules for goods, services or works PROVIDED THAT:

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8 The Relevant Procurement Team must be consulted prior to use of such frameworks in accordance with Rule 3.2(iii).
Part 8.3  

Contract Procedure Rules

(1) the emergency was brought about by events which were not reasonably foreseeable by, or attributable in any way to, the Council (e.g. flood); and

(2) if the goods, services or works are not received immediately, there is a significant risk of:
   (a) danger to life; or
   (b) damage to property; or
   (c) a major impact on the Council or its service users.

19.2.2 In these cases only goods, services or works necessary or appropriate to safeguard the Council’s position or protect life and property can be procured before formal approval is obtained.

19.2.3 Directors must at the earliest opportunity inform the s151 Officer and the Director of Law & Governance of the action taken in dealing with the emergency. Directors must also submit a report to the Cabinet or the relevant Portfolio Holder that details the circumstances of and justifications for granting exemptions made in accordance with this Rule.

19.3 No competitive market

19.3.1 Proprietary or patented goods or services are proposed to be purchased which, in the opinion of the Authorised Officer, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented goods is available; or

19.3.2 The Authorised Officer can demonstrate that no genuine competition can be obtained in respect of the purchase of particular goods, services or works; or

19.3.3 The Authorised Officer is satisfied that the works or services are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or

19.3.4 Goods are proposed to be purchased by or on behalf of the Council at a public auction; or

19.3.5 Goods are proposed to be purchased which are of a specialist nature (such as antiquities for museums),

PROVIDED THAT in all these cases (except for works which are primarily the responsibility of a utility or statutory undertaker⁹)

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⁹ As defined in s329 Highways Act 1980
(1) the Authorised Officer must prepare a report setting out:
   (a) the reasons why the relevant circumstances apply;
   (b) why it is in the best interests of the Council for the contract not to be tendered;
   (c) the process which is intended to be followed instead;

(2) the Authorised Officer receives written agreement to pursue the course of action set out in the statement from:
   (a) the appropriate Director;
   (b) the s151 Officer;
   (c) the Relevant Procurement Team; and
   (d) the Director of Law & Governance
   and

(3) the Authorised Officer, in conjunction with Legal Services, ensures that contract terms are appropriate taking into account all relevant factors (such as benefit and risk to the Council).

19.4 Discount

Where there is a competitive market for goods, services or works contracts under which the Council receives those goods, services or works for a sum which is less than 50% of the benchmarked market price with the balance being paid by a third party PROVIDED THAT this has been certified by the s151 Officer and the Director of Law & Governance\(^\text{10}\).

19.5 The exceptions in Rules 19.1 to 19.4 (inclusive) do not apply where the proposed course of action conflicts with EU public procurement legislation.

19.6 The rest of these Rules must still be complied with.

20. Exemptions from these Rules

20.1 Exemptions from these Rules will only be granted in exceptional circumstances. Generally, a lack of foresight and planning resulting in insufficient time to carry out a lawful tendering process will not constitute adequate justification.

\(^{10}\) Note that this is intended to be used primarily for agreements under section 278 of the Highways Act 1980
20.2 At the conclusion of every Exemption Process whether granted or not the Director/Authorised Officer shall notify the Monitoring Officer\(^\text{11}\) of the final outcome of the process, along with a copy of the complete set of relevant papers.

**Register of Exemptions**

20.3 The Monitoring Officer will maintain a register of all exemption requests under this Rule 20 and will provide a copy of this register to the Chief Finance Officer (s151 Officer) at least every six months, and otherwise as and when requested to do so by the s151 Officer.

**Contracts with a value of less than £75,000**

20.4 An Authorised Officer may seek an exemption from any of these Rules for a contract with a total value of less than £75,000 from:

(i) the relevant Head of Service/Business Manager;
(ii) the Director of Law & Governance; and
(iii) the Relevant Procurement Team.

20.5 In order to request an exemption the Authorised Officer must prepare a report setting out:

(i) the reasons why the exemption is being requested and which Rule(s) an exemption is being requested from; and
(ii) the process which is intended to be followed instead.

20.6 An exemption will only be granted where the Head of Service/Business Manager, the Director of Law & Governance and the Relevant Procurement Team are satisfied that the exemption is justified on its own special circumstances and have given their consent in writing.

**Contracts with a value of £75,000 or more\(^\text{12}\)**

20.7 A Director may seek an exemption from any of these Rules from:

(i) the Cabinet or a Portfolio Holder acting under delegated powers; or
(ii) the Chief Executive acting under delegated powers.

20.8 In order to request an exemption the Director must prepare a report setting out:

(i) the reasons why the exemption is being requested and which Rule(s) an exemption is being requested from;
(ii) the process which is intended to be followed instead;
(iii) a legal appraisal from the Director of Law & Governance;

\(^{11}\) cprexemptions@oxfordshire.gov.uk

\(^{12}\) See Contract Procedure Rules - Exemption Procedure (with pro forma report) for further details.
(iv) a financial appraisal from the s151 Officer; and
(v) confirmation that the Relevant Procurement Team has approved the contents of the report

20.9 An exemption will only be granted where the Cabinet, the Portfolio Holder or the Chief Executive is satisfied that the exemption is justified on its own special circumstances and has given his/her consent in writing.

21. Non-compliance with these Rules

21.1 Any non-compliance with any of these Rules must be notified to the relevant Director and Finance Business Partner (as delegated s151 Officer) by the Authorised Officer at the earliest opportunity. The relevant Director will act in accordance with the Council’s Contract Procedure Rules – Breach Policy.

21.2 If the non-compliance cannot be remedied by the taking of any appropriate step or measure, the matter must be notified to the s151 Officer and the Director of Law & Governance by the relevant Director. Where a particular course of action is specified by both the s151 Officer and the Director of Law & Governance this must be complied with.

21.3 If a non-compliance has given rise to, or is likely to give rise to illegality or maladministration, the s151 Officer and Director of Law & Governance will notify the Monitoring Officer.

21.4 If these Rules are not complied with, this will not invalidate any contract entered into by or on behalf of the Council, except where EU or English law provides to the contrary.

22. Schemes of Delegation

22.1 Directors must ensure that they have Schemes of Delegation identifying:

(i) Authorised Officers; and
(ii) the extent of Authorised Officers’ delegated authority (including expenditure limits which reflect authorisation limits set out in the SAP Approval Matrix).

22.2 Authorised Officers may not, under any circumstances, act outside the delegated powers of their Director.

22.3 Directors must ensure that all Authorised Officers receive the necessary training to be and remain conversant with these Rules.
22.4 Directors must supply to and agree with the s151 Officer their Schemes of Delegation before the start of each financial year, and on making any amendments. The s151 Officer must keep a register of all Schemes of Delegation and supply a copy to the Director of Law & Governance at the beginning of each financial year, and notify the Director of Law & Governance of any subsequent amendments.

23. Definitions

For the purposes of these Rules:

23.1 **Authorised Officers** means those officers of the Council identified as such by Directors in their Schemes of Delegation and approved by the s151 Officer to undertake procurement and contracting on behalf of the Council (including authorisation of expenditure, preparing and/or negotiating contract documentation, awarding and signing contracts and/or managing contracts) and any Agents as defined in Rule 1.8 with such authority;

23.2 **Contract** means an agreement which:

(i) may be oral, written, partly oral and partly written or implied from conduct between the Council and another person;

(ii) gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and

(iii) commits the Council to paying or doing something;

and, where the context requires, a reference to a contract means a contract to which these Rules apply and a “Call-off Contract” means an order made/call-off contract entered into under a Framework Agreement;

23.1 **Contracts Finder** means the web-based portal provided by or on behalf of the Cabinet Office;

23.2 **Director** means directors and officers to whom directors have delegated their functions in accordance with the relevant Scheme of Delegation;

23.3 **EU Tender** means a tender procedure which needs to be carried out under European Union public procurement legislation;

23.4 **Framework Agreement** means a contract with a supplier or suppliers which establishes the terms and conditions (in particular as to price) under which Call-off Contracts can be made during the length of the Framework Agreement. This includes government pre-negotiated contracts;

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13 Note that service level agreements or SLAs are not generally legally binding and must not be used with third parties (i.e. outside the Council).
23.5 **person** means any individual, partnership, local authority or incorporated or unincorporated body;

23.6 **Relevant Procurement Team** means whichever of the following advises the Authorised Officer:

(i) the E&E Procurement Team;
(ii) the Strategic Procurement Team, Joint Commissioning; or
(iii) the Corporate Procurement Team

23.7 **s151 Officer** means the Chief Finance Officer appointed under s151 Local Government Act 1972 and officers to whom the s151 Officer has delegated his or her functions in accordance with the relevant Scheme of Delegation; and

23.8 **Scheme of Delegation** has the meaning given to it under Rule 22.
ANNEX

Useful Documents and Policies

- Policy on the Employment of Ex-Offenders and Disclosure and Barring Service Checks
- Anti-Fraud and Corruption Strategy
- Disclosure and Barring Service Storage Policy
- Corporate Data Protection Policy
- Policy on Declaring and Registering Interests
- Policy on the Employment of Ex-Offenders and Disclosure and Barring Service Checks
- Equality and Diversity in the Workplace Policy
- Corporate Freedom of Information Act Policy
- Health and Safety
- ICT Acceptable Use Policy
- Egress secure email and file sharing guidance
- Public Service Network (PSN) Acceptable Usage Policy

Key documents can also be found in the:

- Corporate Governance Library
- Procurement Toolkit and Guidance

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Note that this list is not exhaustive and it is the responsibility of the Authorised Officer to ensure that all relevant policies have been taken into account.
Officer Employment Procedure Rules

Note: Provisions marked with an asterisk in these Rules are governed by the Local Authorities (Standing Orders) (England) Regulations 2001

(1) General Responsibilities

(a) Subject to the provisions set out below, the powers to:
   (i) appoint staff;
   (ii) determine the terms and conditions on which they hold office;
   (iii) determine procedures for their dismissal; and
   (iv) decide appeals under the discipline, grievance and regrading claims procedures;

are discharged by the Remuneration Committee. In addition, these powers are delegated to directors to the extent set under this Constitution’s Scheme of Delegation to Officers and the provisions of these Procedure Rules.

(b) In educational establishments with delegated budgets the duties and responsibilities of the employer fall partly to governing bodies under the relevant Education legislation.

(c) Directors have authority over all matters relating to staff in their directorates, but must obtain the advice and agreement of the Director of Human Resources (through the County Human Resources Manager) where proposed action might have corporate or wide-ranging implications e.g. grading of senior posts, redundancies, dismissals, etc.

(d) General personnel policies, changes to overall establishments and grading structures, are the responsibility of the Cabinet, subject to any policy which for the time being the Council has directed should be reserved for its approval.

(e) The County Human Resources Manager is responsible for advising on issues of personnel policy and practice.

(f) Directors are responsible for ensuring the promotion of and adherence to the Council's personnel policies in their own directorates.

(g) In relation to Corporate Services the functions of a Director under these Rules shall be exercised by the Head of Paid Service or by such other officer as he/she may designate for that purpose.

(2) Structures of Directorates

(a) Officers in Article 13 have the authority to modify their directorate structures to reflect changing needs, to transfer posts within the approved establishment subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).
(b) Major changes to directorate structures and establishments require the approval of the Cabinet.

(c) Officers in Article 13 are responsible for the management of redundancies and redeployment, subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).

(3) **Salaries and Remuneration**

(a) Changes to the salaries and remuneration of Officers in Article 13 require the approval of the Remuneration Committee or a sub-committee of that committee following consultation with the County Human Resources Manager and the appropriate Cabinet Member.

(b) The grading of jobs subject to the terms and conditions of the National Joint Council for Local Government Services will be determined by the Council’s Job Evaluation Process in accordance with the local agreement of 8 May 2003.

(c) The Council’s Pay Policy will apply to salaries and remuneration.

(4) **Recruitment and Appointment of the Head of Paid Service, and Other Officers in Article 13**

(a) * This Rule (4) applies to: ¹

   ▪ the Head of the Paid Service;
   ▪ a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
   ▪ a non-statutory chief officer within the meaning of section 2(7) of that Act; and
   ▪ a deputy chief officer within the meaning of section 2(8) of that Act. (see Annex 3)

(b) * Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of the Head of the Paid Service, the authority must approve that appointment before an offer of appointment is made to him/her.

(c) * The Head of Paid Service has delegated authority under the Scheme of Delegation to take any decision of a committee or sub-committee; notwithstanding that provision where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment of any officer to whom this Rule applies, at least one member of the Cabinet must be a member of that committee or sub-committee.

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¹ The specified designations are interpreted as including both Directors and Deputy Directors, in addition to the post of Chief Finance Officer
(d) Where the Council proposes to appoint an officer to whom this Rule applies and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:

(i) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;

(ii) 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

(iii) make arrangements for a copy of the statement as to canvassing mentioned below to be sent to any person on request.

(e) The full Council will approve the appointment of the Head of Paid Service and Monitoring Officer following a recommendation as to such an appointment by a sub-committee of the Remuneration Committee.

(f) Where a sub-committee of the Remuneration Committee appoints officers under Article 13, in doing so it shall receive and take into account the advice of the Head of Paid Service.

(g) * An offer of an appointment as an officer to whom this Rule applies must not be made until -

(i) the authority, or the appointing committee, sub-committee or officer, as the case may be, ("the appointor") has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(ii) the Proper Officer has notified every member of the Cabinet of the authority of -

- the name of the person to whom the appointor wishes to make the offer;
- any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
- the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and

(iii) either -

- the Leader of the Council has, within the period specified in the notice under sub-paragraph (ii), notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer; or
- the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Leader of the Council; or
- the appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.
(5) Other Appointments

(a) Subject to (b) below, the function of appointment of any officer other than those mentioned in Rules (4) and (5) above must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

(b) Nothing in (a) above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by another person against any decision relating to the appointment of that other person as a member of staff of the authority.

(c) All officers and members who take part in the recruitment process must have completed the Council's recruitment and selection training or be trained to the satisfaction of the Director of Human Resources.

(6) Canvassing

(a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, guardian, 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. No candidate so related to a councillor or an officer will be appointed without the authority of the relevant officer in Article 13 or an officer nominated by him/her.

(b) Subject to (d) below, 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.

(c) Subject to (d) below, no councillor will seek support for any persons for any appointment with the Council.

(d) Nothing in (b) and (c) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

(7) Appraisal and Management Development

(a) The Director of Human Resources is responsible for the development of effective arrangements for appraisal and management development, including the provision of a management development programme for designated managers on the basis of management competence needs identified by an officer under Article 13.

(b) Officers under Article 13 are responsible for the conduct of appraisals and management of employees' development and performance.
(8) **Health and Safety**

(a) The Director of Human Resources is responsible for producing corporate policy and for monitoring the effectiveness of Health and Safety management.

(b) Each Officer under Article 13 is responsible for producing policies and methods of working which ensure the Health and Safety of his/her directorate's employees. Managers and supervisors are responsible for ensuring compliance with these policies and for ensuring employees comply with rules and standards.

(9) **Equal Opportunities**

(a) The County Human Resources Manager is responsible for ensuring the effective operation of the employment provisions of the Council's Comprehensive Equality Policy.

(b) Officers are responsible for ensuring the promotion of equal opportunities in employment within their directorates in accordance with the Council's policies and for monitoring progress and providing information to the County Human Resources Manager. Managers and supervisors are responsible for ensuring that employees are aware of their responsibility to avoid unfair discrimination.

(10) **Disciplinary Action and Dismissal**

(a) * Subject to (d) below, the functions of taking disciplinary action against and dismissal of any officer other than those mentioned in Rules (4) and (5) above must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

(b) Subject to (a) above, Officers are responsible for the operation of the Council's disciplinary procedures, subject to the advice where appropriate of the Director of Human Resources (through the County Human Resources Manager), with the aim of helping an employee to improve his/her performance or conduct. This responsibility may be delegated via service managers with advice from the appropriate Human Resources Business Partners.

(c) An employee who fails to fulfil the requirements of his/her employment contract because of incapacity through ill health, repeated misconduct or gross misconduct, shall be liable to dismissal in accordance with the appropriate procedures and subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).

(d) * Nothing in (a) above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
(e) * Neither the Head of Paid Service, the Monitoring Officer nor the Chief Finance Officer may be dismissed by unless the procedure set out in Annex 1 to these rules is complied with.

(f) * Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of dismissal of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer, the authority must approve that dismissal before notice of dismissal is given to him/her. For the avoidance of doubt, a decision to dismiss any of the aforementioned postholders must be taken by Full Council.

(g) * The Head of Paid Service has delegated authority under the Scheme of Delegation to take any decision of a committee or sub-committee; notwithstanding that provision where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of dismissal of any officer to whom Rule (4) applies, at least one member of the Cabinet must be a member of that committee or sub-committee.

(h) * Notice of the dismissal of an officer to whom Rule (4) applies must not be given until:

(i) the authority, or the dismissing committee, sub-committee or officer, as the case may be, ("the dismissor") has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(ii) the Proper Officer has notified every member of the Cabinet of -

- the name of the person who the dismissor wishes to dismiss;
- any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
- the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and

(iii) either -

- the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other member of the Cabinet has any objection to the dismissal;
- the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader of the Council; or
- the dismissor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.
(11) Employee Relations and Communications

Individual Officers, in conjunction with the Director of Human Resources, are responsible for ensuring good working relations with employees and the recognised trade union representatives of the workforce. Officers are responsible for informing and consulting both employees and appropriate recognised trade unions about issues which affect the staff in their directorates and are responsible for local joint consultative working groups.

(a) The Council's Grievance Procedure sets out arrangements for settling grievances at the lowest possible level in the organisation. Where agreement is not reached within the directorate the County Human Resources Manager is to be consulted.

(b) Provisions and guidance on relations and communication between members of the Council and staff are contained in the Protocol on Member/Officer Relations.

(12) Protocol for Employees Working Part-Time and/or Temporarily for, or Providing Consultancy to, other Bodies or Councils

Annex 2 to these Rules is a Protocol which members of staff wishing to take up such forms of employment while employed by the County Council are expected to observe.
Annex 1 – Procedure to be complied with in respect of dismissal of senior officers

The following procedure is to be followed under Rule 10(e) of the Officer Employment Procedure Rules before the dismissal of the following posts can be undertaken:

- Head of Paid Service
- Monitoring Officer
- Chief Finance Officer

1. The authority must invite relevant independent persons to be considered for appointment to a Panel to be established for the purposes of advising the authority on matters relating to the dismissal of the relevant officer, with a view to appointing at least two such persons to the Panel;

2. The ‘independent person(s)’ so appointed means any independent person who has been appointed by the authority under section 28(7) of the Localism Act 2011 (for the purposes of advising the authority on complaints against the members’ code of conduct);

3. Where the authority has fewer than two such independent persons, such independent persons as appointed by another authority or authorities may be appointed, as the authority considers appropriate;

4. Specifically, the authority must appoint to the Panel such independent persons who have accepted the invitation to join it, in accordance with the following priority order:

   (a) An independent person 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.

5. The authority is not required to appoint more than two independent persons but may do so;

6. The authority must appoint any such Panel at least 20 working days before the relevant meeting of the authority.

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2 For the avoidance of doubt, the procedure outlined here is the procedure required to be undertaken under Schedule 3 of the Local Government (Standing Orders)(England) Regulations 2001 (as amended).

3 The ‘Panel’ means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes outlined in that paragraph.

4 That is, the meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer.
7. Before taking a vote at the relevant meeting of the authority 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 representation from the relevant officer.
PROTOCOL FOR EMPLOYEES WORKING PART-TIME AND/OR TEMPORARILY FOR, OR PROVIDING CONSULTANCY TO, OTHER BODIES OR COUNCILS

1. During contracted work time all employees of the Council are expected to devote their time and efforts exclusively to the work of the Council.

Release for Outside Work While Employed by the Council

2. Where an employee wishes to be released temporarily from his/her duties in order to take up work or consultancy with another Council or body, the employee must:

   (a) consult his/her Director or named manager;
   (b) ensure that the outside work does not conflict with the Council’s interests or policies and is not likely to bring the Council into disrepute;
   (c) ensure that the work undertaken will not place risks or workloads on himself/herself so as to cause him/her to be unfit for his/her normal work for the Council.

3. When a Director or named manager receives a request for an employee to be released he/she has the authority to agree the release in accordance with the Council’s time-off policies but must ensure that:

   (a) the employee has fulfilled his/her obligations under paragraph 2 above;
   (b) the Council’s services do not suffer detriment as a result;
   (c) any loss or cost to the Council is reimbursed;
   (d) Council facilities or records are only used where explicitly agreed and where there is no cost, risk or loss of efficiency or security to the Council;
   (e) the details relating to the agreement for release are set down in writing for information of all relevant parties.

Second Jobs

4. Where a Council employee takes a second job with another employer while still employed by the Council, the following shall apply:

   (a) All full-time and some part-time employees must consult their Director or named manager before taking up additional employment.
   (b) Employees should notify their manager of all additional employment to ensure that the health and safety of the employee is not jeopardised.
   (c) All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the interests of the Council.
(d) Council time and facilities must not be used in pursuance of additional employment.

**Special Cases**

5. In certain areas of employment special arrangements may be required. Directors will ensure that employees are fully informed as appropriate and will communicate special requirements clearly to employees who are affected.

6. In the case of a Director of the Council, a written request should be made to the Head of Paid Service who will fulfil the necessary checks and decide upon release after consultation with the appropriate member(s) of the Council’s Cabinet.

7. In the case of the Head of Paid Service of the Council, he/she will make a request for release in writing to the Leader of the Council for decision.
Senior Posts and Proposed Appointor

The appointor in each case must advise the Proper Officer of the person it is intended to appoint so that he/she can consult Cabinet members for any comment. No appointment can be made until any comments from the Cabinet members have been considered by the appointor.

NB The Regulatory description reflects current position

<table>
<thead>
<tr>
<th>Post</th>
<th>Regulatory Description</th>
<th>Appointor under Constitution</th>
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</thead>
<tbody>
<tr>
<td>Head of Paid Service</td>
<td>Head of Paid Service</td>
<td>Full Council</td>
</tr>
<tr>
<td>Director for Children’s Service</td>
<td>Statutory Chief Officer</td>
<td>Remuneration Committee</td>
</tr>
<tr>
<td>Director for Adult Services</td>
<td>Statutory Chief Officer</td>
<td>Remuneration Committee</td>
</tr>
<tr>
<td>Director of Public Health</td>
<td>Statutory Chief Officer</td>
<td>Advisory Appointments Committee*</td>
</tr>
<tr>
<td>Director of Finance</td>
<td>Statutory Chief Officer</td>
<td>Remuneration Committee</td>
</tr>
<tr>
<td>Monitoring Officer</td>
<td>Statutory Chief Officer</td>
<td>Full Council</td>
</tr>
<tr>
<td>Strategic Director of Communities</td>
<td>Non-statutory Chief Officer</td>
<td>Remuneration Committee</td>
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<tr>
<td>Strategic Director of Resources</td>
<td>Non-statutory Chief Officer</td>
<td>Remuneration Committee</td>
</tr>
<tr>
<td>Strategic Director for People</td>
<td>Non-statutory Chief Officer</td>
<td>Remuneration Committee</td>
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<tr>
<td>Director of Digital and ICT</td>
<td>Non-statutory Chief Officer</td>
<td>Head of Paid Service</td>
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<tr>
<td>Director of Human Resources</td>
<td>Non-statutory Chief Officer</td>
<td>Head of Paid Service</td>
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<tr>
<td>Assistant Chief Executive</td>
<td>Non-statutory Chief Officer</td>
<td>Head of Paid Service</td>
</tr>
<tr>
<td>Director of Law and Governance</td>
<td>Non-statutory Chief Officer</td>
<td>Head of Paid Service</td>
</tr>
<tr>
<td>Various posts – i.e. those reporting to the HOPS, Statutory and Non-Statutory Chief Officers</td>
<td>Deputy Chief Officers (includes Chief Fire Officer)</td>
<td>Relevant chief officer e.g. HOPS, Strategic Director or Director</td>
</tr>
</tbody>
</table>

* The Health and Social Care Act 2012 requires that each local authority must, acting jointly with the Secretary of State for Health, appoint an individual to have responsibility for its new public health functions, known as the director of public health. An “Advisory Appointments Committee” must be set up in line with Faculty of Public Health guidance, with County Council, Public Health England and Faculty of Public Health representation.

**Although the post of Strategic Director for People is currently filled by the Director of Public Health, the position of Strategic Director for People is a non-statutory chief officer position, reporting to the Head of Paid Service.
Members’ Code of Conduct

1. This code of conduct is adopted pursuant to the council’s duty to promote and maintain high standards of conduct by members and co-opted members\(^1\) of the council.

2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

Selflessness

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

Objectivity

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

Honesty and integrity

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

Leadership

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

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\(^1\) A “co-opted member” for the purpose of this code is, as defined in the Localism Act section 27 (4) “a person who is not a member of the council but who
(a) is a member of any committee or sub-committee of the council, or
(b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.”
GENERAL OBLIGATIONS

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;

10. You must not bully any person.

11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.

12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:

   (i) you have the consent of a person authorised to give it;

   (ii) you are required by law to do so;

   (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person, or

   (iv) the disclosure is:

       (a) reasonable and in the public interest;
       
       (b) made in good faith and in compliance with the reasonable requirements of the council.

13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.

14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council’s officers.

15. When using or authorising the use by others of the resources of the council:

   (i) you must act in accordance with the council’s reasonable requirements;

   (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

REGISTERING AND DECLARING INTERESTS

16. You must, within 28 days of taking office as a member or co-opted member, notify the council’s monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary
interest is yours, your spouse’s or civil partner’s, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

17. You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a ‘sensitive interest’.

18. Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

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2 A “sensitive interest” is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council’s monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
Members who are also Members of a District Council in Oxfordshire

**Cherwell District Council**

<table>
<thead>
<tr>
<th>Councillor Hannah Banfield</th>
<th>Councillor Tony Ilott</th>
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<tr>
<td>Councillor Maurice Billington</td>
<td>Councillor Kieron Mallon</td>
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<tr>
<td>Councillor Mark Cherry</td>
<td>Councillor G.A. Reynolds</td>
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<tr>
<td>Councillor Ian Corkin</td>
<td>Councillor Dan Sames</td>
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<tr>
<td>Councillor Carmen Griffiths</td>
<td>Councillor Les Sibley</td>
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**Oxford City Council**

<table>
<thead>
<tr>
<th>Councillor Jamila Begum Azad</th>
<th>Councillor Susanna Pressel</th>
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<tbody>
<tr>
<td>Councillor Mark Lygo</td>
<td>Councillor Roz Smith</td>
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**South Oxfordshire District Council**

<table>
<thead>
<tr>
<th>Councillor David Bartholomew</th>
<th>Councillor Alan Thompson</th>
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<tr>
<td>Councillor Stefan Gawrysiak</td>
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**Vale of White Horse District Council**

<table>
<thead>
<tr>
<th>Councillor Neil Fawcett</th>
<th>Councillor Judy Roberts</th>
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<tbody>
<tr>
<td>Councillor Jenny Hannaby</td>
<td>Councillor Emily Smith</td>
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<tr>
<td>Councillor Bob Johnston</td>
<td>Councillor Richard Webber</td>
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</tbody>
</table>

**West Oxfordshire District Council**

<table>
<thead>
<tr>
<th>Councillor Ted Fenton</th>
<th>Councillor Liz Leffman</th>
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</table>
Gifts and Hospitality - Guidance for Members

Background

1. Members may well be offered gifts or hospitality during the course of conducting Council business. This raises an initial question of deciding whether or not to accept. The acceptance of a gift or hospitality potentially creates a risk to the integrity and reputation of the Member as well as the Council itself. Members are strongly advised to be cautious and should consult the Monitoring Officer if they are in any doubt in a particular case.

Legal Position

2. While there is now no specific statutory requirement for members/co-opted members to register the offer of gifts and hospitality, the Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.

The Members’ Code of Conduct and Constitution

3. The Council’s Members’ Code of Conduct (Part 9.1 of the Constitution) provides that you must serve the public interest, rather than acting in the interests of any particular individual or section of the community, and it is a breach of the Code to improperly confer any advantage or disadvantage on any person, including yourself.

Registering gifts and hospitality

4. In order to protect the integrity of the Council, and yourself, members/co-opted members are strongly advised to register any gift or hospitality worth £50 or over that you receive in connection with your official duties as a Member, together with the source of the gift or hospitality. You should also register an accumulation of small gifts you receive from the same source over a period of time that add up to £50 or more.

5. Any registrations can be made and recorded on the Register of Members’ Interests form (paragraph 8, ‘other interests (non-statutory’) ). This will then be published on your Register of Interests entry on the Council’s website. See paragraphs 17-25 below for how to register a gift or hospitality.

General Principles

6. In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if it would normally be appropriate to
accept a small gift or hospitality, you should not do so if it would be in breach of one or more of these principles:

(a) **Never accept a gift or hospitality as an inducement or reward for anything you do as a Member**

You must not be influenced in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

(b) **You should only accept a gift or hospitality if there is a commensurate benefit to the Council**

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council that would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority through a working lunch. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

(c) **Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the Council and to you as a Member as actual impropriety. The Council’s ability to govern rests upon its reputation for acting fairly and in the public interest. You must consider whether acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company, organisation or section of the community or as placing you under any improper obligation to any person or organisation. If so, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

(i) competitive procurement processes;
(ii) determinations of planning applications or planning policy;
(iii) funding decisions.

(d) **Never accept a gift or hospitality that puts you under an improper obligation**

Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, they may seek to use this fact to persuade you to
determine an issue in their favour. If others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

(e) **Never solicit a gift or hospitality**

Never solicit or invite an offer of a gift or hospitality in connection with your position as a Member and you should also take care to avoid giving any indication that you might be open to any such improper offer.

**Gifts**

7. As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council. These rules also apply to discounts offered to an individual Member going beyond those offered to the general public (other than those available to all Members and Officers).

8. As general guidance, the following small gifts worth under £50 may occasionally be accepted (provided that they do not conflict with the General Principles):

(a) office equipment or stationery given by way of trade advertisements or for use in the office. Nothing more elaborate than calendars, pens or diaries would fall within this exception.  
(NB: You should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.)

(b) gifts of only token value given on the conclusion of an official courtesy visit, for example, a visiting delegation. Gifts e.g. a box of chocolates or flowers of a value less than £25 provided they are given as a genuine show of appreciation of work undertaken but should never be accepted if it may give rise to an appearance of influence or reward.

**Hospitality**

9. Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.

10. Hospitality should only be accepted with the utmost caution, and on a scale appropriate, to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it, and might later be thought to have affected a Member’s impartiality in dealing with official matters.
11. Some offers of hospitality are always unacceptable for example, offers of holiday accommodation. Others will need to be considered on their facts, for example, invitations to sporting fixtures, evenings at the theatre or similar entertainment should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council not the individual Member. Hospitality on a lower scale than this may also be unacceptable. No absolute dividing-line can be laid down.

12. There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Council.

13. However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. Acceptable hospitality is that not exceeding £25 in value such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. The decision whether to accept or not must depend on the circumstances in each case but hospitality should never be accepted if it may give rise to an appearance of influence or reward.

**Wills and Bequests**

14. If there is any connection between your work as a Member and being a beneficiary under a will, then you need to be cautious as the offer of any benefit will need to be considered carefully in accordance with the General Principles and if accepted, may need to be registered. You should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

**Sponsorship**

15. Offers of sponsorship need to be treated carefully. If the offer is to sponsor the Council it should be referred to the Monitoring Officer who will consider the offer in accordance with the Council’s usual processes.

16. If the offer is to sponsor you as an individual, it should be dealt with in the same way as an offer of a gift or hospitality. In some cases such offers may be acceptable for example, where colleagues or others are sponsoring you for a charitable purpose. In other cases they may not be acceptable for example, where they are related in some way to the work of the Council or your role as a Member; involve significant sums; or seek specific outcomes for the person or organisation making the offer. If in doubt you should consult the Monitoring Officer.
Registering Gifts, Hospitality and Sponsorship

17. If you are offered gifts, hospitality or sponsorship worth £25 or over, you need to decide, taking into consideration the general principles, whether to accept or decline any such offer.

18. If you are in any doubt as to whether to accept or decline any gift, hospitality or sponsorship then you are advised to seek the Monitoring Officer’s advice before doing so. In order to do this you will need to advise the Monitoring Officer of the following:

(i) The nature and your estimate of the market value of the gift or hospitality;

(ii) The name of the person or company offering the gift or hospitality;

(iii) The connection which you have with the person or organisation making the offer or invitation such as any work which you have undertaken for the Council in which they have been involved;

(iv) Any work, permission, concession or facility that you are aware that the person or organisation making the offer or invitation may seek from the Council;

(v) Any special circumstances that lead you to believe that acceptance would not be improper.

19. The Monitoring Officer will give you advice wherever possible but it will be a matter for you to make the decision as to whether to accept or decline. Your decision and the reasons for it should then be entered into the Register of Members’ Interests.

20. Where you do accept any gift or hospitality of £50 or over you should register this within 28 days of receiving the gift or hospitality.

Voluntary Declarations

21. You can always make a voluntary declaration to be entered on the Register of Gifts and Hospitality, even if you have declined the gift or hospitality or the value of the gift or hospitality is less than £50. If you are concerned that an offer or its acceptance might be misinterpreted you may make such a voluntary declaration to ensure that there is nothing secret or underhand about the gift or hospitality or your actions.
Gifts to the Council

22. You may at some time be offered a gift for the Council as opposed to a gift to you in your individual capacity as a Member. Such gifts could take several forms, for example: land, buildings, goods, services, either for the Council to retain or test with a view to future acquisition; offers to carry out works, or provide services; or sponsorship of a Council-supported or organised function or activity. In such cases you should report the offer on receipt to the Monitoring Officer who will consider and determine in accordance with normal Council processes whether the Council should or should not accept the gift.

23. The Monitoring Officer will notify the person or the organisation offering the gift, whether it is accepted or not and will:
   - Record the acceptance or non-acceptance;
   - Record the outcome for audit purposes;
   - Ensure the gift, if accepted, is properly applied for the benefit of the Council.

Gifts to the Chairman

24. Gifts received by the Chairman in his or her official capacity are deemed to be gifts to the Council. The Chairman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they may be used for the benefit of the Council.

What do I need to declare at a meeting?

25. If a matter under consideration at a meeting is likely to affect a person who gave you a gift or hospitality then you must declare the existence and nature of the gift or hospitality, the source who gave it to you and how the business under consideration relates to that source.

Review of this guidance

26. This Policy will be reviewed by the Monitoring Officer in December 2016.
Protocol on Members’ Rights and Responsibilities

1. Introduction

(a) This Protocol sets out the rights of individual members of the Council to obtain information, inspect documents and attend meetings. It is not intended to be a comprehensive summary of the legal rights and responsibilities which members have under both statute and common law. This protocol should be read in conjunction with other elements of this Constitution, in particular the Cabinet and Scrutiny Procedure Rules, the Access to Information Procedure Rules and the Protocol on Member/Officer Relations. Standards of Conduct for members are contained in a separate Code of Conduct also set out in this Constitution.

(b) In law all Councillors are equal and have the responsibilities of trustees. However legislation, and guidance issued under it, gives certain powers and duties to the different roles which members may play e.g. Chairman of the Council, Leader of the Council, Cabinet member, Chairman of a Scrutiny Committee. The Constitution also sets out rights and obligations on all members either in specific roles or in general. All members are required by law to:

(i) comply with the Code of Conduct for Members set out in this Constitution;
(ii) comply with the other provisions of the Council's Constitution;
(iii) comply with all relevant statutory provisions; and
(iv) ensure that any facilities provided by the Council for members' use in undertaking their duties are used strictly for those duties and for no other purpose.

(c) It is the responsibility of members themselves to ensure that they have proper advice. If members are ever in any doubt in terms of the law, the Constitution, general propriety, conflicts of interest, etc they should consult the Monitoring Officer or an officer(s) nominated by her/him should be consulted. Similarly, they should consult the Chief Finance Officer or an officer(s) nominated by her/him in respect of financial advice.

2. Opposition Leader, Deputy Leader and Shadow Cabinet

The largest political group on the Council which is not the Group(s) from which the Cabinet is drawn will be officially recognised by the Council as the Opposition. The Opposition may appoint a Leader, Deputy Leader and other members (not being more than the number of members in the Council’s Cabinet) to shadow the responsibilities of the Leader and Deputy Leader of the Council and the other Cabinet members as set out in Article 6 of this
Constitution. Collectively these Opposition members will be termed the Shadow Cabinet. Only one member of the Opposition may be appointed to shadow any one Cabinet position.

3. Rights of the Shadow Cabinet to Make Opposition Statements at Cabinet Meetings

At meetings of the Cabinet or any committee of the Cabinet or when an individual member of the Cabinet is taking decisions in accordance with the rules set out in the Constitution, Shadow Cabinet Members will have the right to attend and make a formal Opposition statement on a matter under consideration. This right will extend only to the Shadow Cabinet member in relation to the functions of the Cabinet for which s/he is the shadow. The exercise of this right is subject to the prior agreement of the Leader or Deputy Leader of the Council or other Cabinet member who will be presiding at that meeting on the number of items on the agenda for that meeting on which such a statement can be made. Notice by the Shadow Cabinet of the intention to make a statement shall be given by 9 am on the working day before the meeting. Such a statement may be made at any time during the consideration of that item at the meeting and shall not exceed a period of five minutes. However, this will not prevent the person presiding inviting the Shadow Cabinet member to make any additional comment during the consideration of that item of business. If the Shadow Cabinet member is unable to attend, then the right can be exercised by the Leader or Deputy Leader of the Opposition. For the avoidance of doubt the rights in this paragraph are additional to any other rights of members to address the Cabinet as set out in the Constitution.

4. Rights of Shadow Cabinet Members to Private Briefings

The Shadow Cabinet members shall have the right to request private briefings from Officers and in such cases the procedures set out under political activity in the Protocol on Member/Officer Relations will apply. This will not prevent, by mutual agreement, attendance by Shadow Cabinet members at the whole or part of any private briefings arranged for Cabinet and/or Scrutiny members where this would lead to the most efficient and effective use of officers’ time.

5. Rights of the Opposition and Other Groups to Put Forward Their Own Budgets

The political groups of the Council, other than the Group(s) which form(s) the Administration, will have the right to put forward their own proposed budgets for consideration at the February Council meeting, subject to a timetable being agreed each year between the political groups to enable any such proposed budgets to be examined in detail by all members and the Section 151 officer, and to allow that officer sufficient time to advise the Council on the budget credibility and legality.
6. Rights of Members to Attend Meetings

(a) All members have the right to attend full meetings of the full Council and to speak and vote on matters coming before it. Members who are appointed to a particular body may attend, speak and where appropriate vote on matters before that body.

(b) Any member of a committee or sub-committee, who is unable to attend a meeting of that committee or sub-committee may give notice directly or indirectly to the Director of Law & Governance of her/his resignation from the committee or sub-committee on a temporary basis for the duration of that meeting only. Upon receiving notification of any such temporary resignation, the Director of Law & Governance shall make a temporary appointment to the committee or sub-committee for that meeting only. The member so temporarily appointed shall be drawn from the list of eligible alternative members appointed under Council Procedure Rule 1.1.2(x) and shall have been nominated by the appropriate political group in accordance with Section 16(1) and Section 16(2) of the Local Government & Housing Act 1989 and will have complied with Council Procedure Rule 4. The member so temporarily appointed shall be entitled to attend, speak and vote at the meeting, provided that:

(i) no member shall be appointed in place of more than one member at any one meeting;

(ii) the name of the member so temporarily appointed shall be notified to the committee or sub-committee by the Director of Law & Governance under the item in the agenda dealing with "Apologies for Absence and Temporary Appointments"; and

(iii) her/his appointment shall apply for the whole of the meeting in question and shall qualify for the payment of all appropriate expenses, save that if a meeting stands adjourned to a different date, a member may invoke the provisions of this paragraph (b) in respect of the resumed meetings as if it were a new meeting.

At the end of the meeting the temporary appointment shall cease and the Director of Law & Governance shall reappoint the original member.

(c) All members have the right to attend, as non-speaking observers, any meeting of the Cabinet or a committee of the Cabinet where decisions are to be taken, or of a Scrutiny Committee (or sub-committee), or of a committee (or sub-committee) of the Council or when an individual Cabinet Members is taking decisions. Members may attend and speak at any meeting to which they have been invited either as part of any rights conferred by this Constitution (including the Councillor Call for Action) or at the invitation of the person presiding at any meeting.
The rights conferred in (c) above do not apply in relation to any part of a meeting from which the public has been excluded. A member has a right to attend that part of a meeting, as a non-speaking observer, if s/he can demonstrate a ‘need to know’. Where a member wishes to attend as s/he believes that there is a ‘need to know’ in order to properly fulfil her/his duties as a County Councillor then the following procedure should be followed:

1. The request should be made in writing to the Chairman of the committee, giving reasons why it is necessary for the member to attend the meeting in order to fulfil her/his duties as a Councillor.

2. The Chairman of the committee may decline the request of a member to attend where in her/his view attendance:
   - is not necessary for enabling the member to fulfil her/his duties as a member; and/or
   - should not be allowed for some other good reason(s) (which reason(s) shall be specified in writing to the member).

3. Where a member is dissatisfied with a determination of the chairman under this procedure, s/he may refer the matter to the Monitoring Officer for determination.

The Leader of the Council, the Deputy Leader of the Council, the Leader of the Opposition (or their substitutes) and the Chairman of the Council shall be entitled to attend and speak but may not vote at meetings of any Council committee or sub-committee (not being a sub-committee which is dealing with individual cases) of which s/he is not a member.

Any member may at the invitation of the Cabinet, committee of the Cabinet, individual member of the Cabinet, Scrutiny Committee or committee and sub-committee of the Council, participate in any informal member advisory group(s), established by those individuals or bodies, except that no member of the Cabinet may serve as a member of any advisory group established by a Scrutiny Committee. Any member of a Scrutiny Committee who serves on an advisory group established by the Cabinet, a Committee of the Cabinet or individual member of the Cabinet should not subsequently be involved in any scrutiny of a Cabinet decision which relates directly to the advice given by that advisory group.

In order to ensure the proper conduct of meetings and that proceedings are not disrupted, any member of a meeting (or a substitute member), who wishes to record, tweet or blog during it, may be asked by the Chairman of the meeting to remove themselves from it and take up a position in the public seating area set aside for such purposes.
7. **Rights of Members to Place Items on Agenda**

(a) All members will have the right to propose a motion for consideration at a meeting of the full Council in accordance with the Council Procedure Rules set out in this Constitution.

(b) In accordance with the Cabinet Procedure Rules, the following will apply to placing member items on the agenda of the Cabinet:

   (i) Any member of the Cabinet may request the Proper Officer that an item be placed before the Cabinet. The Proper Officer will arrange for the Cabinet to consider, in the context of the Forward Plan, what arrangements to make for consideration of that item.

   (ii) Any member of the Council may make a request through a member of the Cabinet that an item be placed before the Cabinet. If the Cabinet Member endorses the request and so notifies the Proper Officer, that Officer will arrange for the Cabinet to consider in the context of the Forward Plan what arrangements to make for consideration of that item. When any such item is considered by the Cabinet the agenda for the meeting will give the name of the Councillor who asked for the item to be considered. The individual member shall be invited to attend and speak at the meeting during consideration by the Cabinet of that item.

(c) In accordance with the Scrutiny Procedure Rules, the following will apply to placing member items on the agenda of a Scrutiny Committee:

   (i) Any member of a Scrutiny Committee shall be entitled to give notice to the Proper Officer that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for that Committee. If the Proper Officer receives the request at least 10 working days before a scheduled meeting of that Committee s/he will include it on the agenda for that meeting; otherwise it will be placed on the agenda for the following meeting of that Committee. The individual member shall have a right to speak at the meeting during consideration by the scrutiny committee of that item.

   (ii) Any member of the Council shall be entitled to give notice, under the Procedure for a Councillor Call for Action set out in Annex 1 to this Protocol, to the Proper Officer that s/he wishes an item concerning her/his Electoral Division and which is relevant to the functions of the committee to be included on the agenda for that committee. If the Proper Officer receives the request at least 15 working days before a scheduled meeting of that committee s/he will include it on the agenda for that meeting; otherwise it will be placed on the agenda for the following meeting of that committee. The member shall have a right to speak at the meeting during consideration by the scrutiny committee of that item.
(iii) The leader of any political group on the Council may request the Chairman and Deputy Chairman of a Scrutiny Committee to include an item relevant to the functions of the Committee on the agenda of that Committee. If the Chairman and Deputy Chairman so agree, they shall request the Proper Officer to include such item on the agenda of that Committee. If the Proper Officer receives the request at least 10 working days before a scheduled meeting of that Committee s/he will include it on the agenda for that meeting; otherwise it will be placed on the agenda for the following meeting of that Committee.

(iv) Any 10 members of the Council who are not members of the Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the relevant Scrutiny Committee. If the Proper Officer receives the request at least 10 working days before a scheduled meeting of that Committee s/he will include it on the agenda for that meeting; otherwise it will be placed on the agenda for the following meeting of that Committee.

(d) Any member of the Council may request the Proper Officer to include an item on an agenda for a Council committee or sub-committee provided that:

(i) notice of the request is received by the Proper Officer by 2.00 p.m. on the tenth working day before the meeting of a committee or sub-committee;

(ii) the subject matter of any such notified item is relevant to the powers/functions of the committee or sub-committee; and

(iii) the item will normally be for oral report unless 20 working days’ prior notice is given to enable a report to be prepared.

The individual member shall be invited to attend and speak at the meeting during consideration by the committee or sub-committee of that item.

8. Information for Members

(a) Cabinet Forward Plan, Agenda, Reports and Minutes

All members of the Council have the right to receive an electronic copy of:

(i) the Cabinet Forward Plan each month when it is published;

(ii) the agenda, reports and minutes of each meeting of the Cabinet or a committee of the Cabinet.

The voting co-opted members of the Education Scrutiny Committee will have the right to receive an electronic copy of:

(i) the Cabinet Forward Plan each month when it is published;

(ii) any items on an agenda of the Cabinet or any committee of the Cabinet which concern the discharge of any education functions.
An elected member or a voting co-opted member will normally receive the documents in electronic form unless exceptional circumstances apply or unless he/she is a member of the meeting in question. This will not affect the general rights under the Access to Information Procedure Rules.

(b) **Agenda, Minutes and Reports of Scrutiny Committees**

All members of the relevant Scrutiny Committee will be entitled to receive a hard copy of the agenda, reports and minutes for meetings of the Committee. Any other member may only request the Proper Officer to send her/him agendas, reports or minutes or specified parts of any scrutiny committee documents in paper form in exceptional circumstances. A copy of all scrutiny committee and sub-committee agendas, reports and minutes will be placed in the Members’ Resource Centre.

(c) **Agenda, Minutes and Reports of the Council and its Committees**

All members will be entitled to a hardcopy of the agenda, reports and minutes for meetings of the full Council. All members of the relevant committee of the Council will be entitled to a hard copy of the agenda, reports and minutes for meetings of the committee. Any other member may only request the Proper Officer to send her/him agendas, reports or minutes or specified parts of any Council committee or its sub-committees in paper form in exceptional circumstances. A copy of all Council, its committee and sub-committee agendas, reports and minutes will be placed in the Members’ Resource Centre.

(d) **Access via the Council’s Web Site**

In addition to the specific rights set out in (a), (b) and (c) above, all public papers for any meeting of the Council, committee (or sub-committee) of the Council, Cabinet or Committee of the Cabinet, Scrutiny Committee (or sub-committee) or public papers where any decision is to be made by an individual member of the Cabinet or any key decision to be made by an officer will normally be available on the Council’s web-site five clear working days before the meeting for access by members and the public.

The rights of elected members and co-opted members to receive information as set out in paragraphs (a)-(d) above are all subject to the provisions of the Access to Information Procedure Rules in this Constitution.
9. **Effective Communication with Members**

(a) The Cabinet will ensure that there are effective communications with all members and that there are robust channels of communication established. The Cabinet should take an inclusive approach to its work and ensure that there is wide consultation with all members both within the formal decision making process and outside it.

(b) Officers are required to keep members informed, both about the major issues concerning the County Council and other matters which affect the County, and Directors have a responsibility to put in place mechanisms to ensure that this happens and shall report quarterly to the Monitoring Officer on their directorate’s compliance with the communication requirements under this Section.¹

(c) Officers are required to keep members informed and, **where appropriate**, consult them in advance about significant issues, events, agenda items, formal discussions and other aspects of Council business which affect or may affect the areas which a member represents. These instances will include but are not limited to:

(i) the sale or purchase of any land;

(ii) a proposed traffic management scheme or a proposed local planning application;

(iii) where legal/administrative action is to be taken on behalf of the Council involving the publication of statutory or other public notices affecting a member’s division the member will be advised, where possible, before or, if not before, concurrently with publication;

(iv) consultation prior to any decision being made by the Cabinet, committee of the Cabinet, individual Cabinet Member, committee of the Council or officer about the construction of any new road, service area, building or footpath or the postponement or cancellation of such projects or diversion or extinguishment of any public footpath;

(v) copies of letters received from other statutory bodies informing the Council of any new scheme of works, e.g. the laying of a new sewer or gas main through the division;

(vi) copies of letters or e-mail messages sent by any member of the Cabinet, or an officer in reply to any District Councillor or Town/Parish Councillor on a divisional matter;

(vii) consultation about proposed section 106 and other infrastructure agreements and progress reports on implementation of completed agreements, in accordance with guidance issued by the Director for Environment & Economy.

¹ Directors will need to determine what information is appropriate to share with Members but this will not normally include personal data.
(d) The Director for Children, Education & Families will ensure that members are informed about appropriate and significant matters concerning schools whose catchment areas lie within their divisions.

(e) Constituency correspondence from or to a Member of Parliament will be copied to a relevant councillor if the Member of Parliament’s original letter or e-mail message was copied to that Councillor or if the MP indicates a willingness for it to be copied to a Councillor.

(f) Where the Cabinet or a committee of the Cabinet, or an individual Cabinet Member, or a committee or sub-committee of the Council is to consider any matter which directly relates to an Electoral Division, the member for that Division will be consulted before any decision is reached. This will also apply to any Scrutiny Committee where it is reviewing a decision or investigating any matter which relates to one Electoral Division. The member’s right to comment will include:

   (i) the submission of written comments to the Proper Officer for report to the decision maker;
   
   (ii) attendance at the meeting at which the decision is to be made and the right to speak on it for not more than 5 minutes²;
   
   (iii) Where the decision is to be made by an individual member of the Cabinet, the local member will be given every opportunity of meeting with the decision maker prior to the decision being made.

In (ii) above the member will be given advance notice of the meeting and if the member wishes to attend and speak, notice of that intention shall be given to the Proper Officer no later than 9.00 am on the working day before the meeting.

(g) Members will be invited to attend the opening of a new County Council building or road scheme or other ceremonies or events in their electoral division.

10. Local Meetings

Where the Cabinet, a committee of the Cabinet, an individual Cabinet Member, a committee or sub-committee of the Council or an officer has organised any member meeting to discuss with a local group(s) issues specifically affecting their divisions, the local member(s) will be advised and have the right to attend and speak at such meetings.

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² This is not restricted to matters relating only to one Division but also to any matter across a number of Divisions where there are local implications.
11. Rights of members to Access to Documents and Other Information

(a) Material Relating to Key Decisions

In accordance with the Access to Information Procedure Rules, 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 a committee of the Cabinet or an individual Cabinet Member which relates to any key decision to be taken as set out in the Forward Plan unless paragraph (i), (ii) or (iii) below applies:

(i) any private briefing document from an officer to the Cabinet, individual Cabinet Member or a political Group;

(ii) it contains exempt information falling within paragraphs 1, 2, 3 (if relating to contract terms in the course of negotiation), 4, 5, 7 or 7A-C of the categories of exempt information as defined in the Access to Information Procedure Rules;

(iii) it contains the advice of a political adviser.

Where a member wishes to inspect any document which contains exempt information falling within (ii) above as s/he believes that there is a “need to know” in order to properly fulfil her/his duties as a County Councillor then the following procedure should be followed:

1. The request should be made in writing to the relevant Chief Officer who has possession of the information, giving reasons why it is necessary for the member to have the information in order to fulfil her/his duties as a Councillor.

2. A Chief Officer may decline the request of a member to produce for inspection a document where in her/his view access to the document:
   - is not necessary for enabling the member to fulfil her/his duties as a member; and/or
   - should not be provided for some other good reason(s) (which reason(s) shall be specified in writing to the member).

3. Where a member is dissatisfied with a determination of a Chief Officer under this procedure s/he may refer the question to the Monitoring Officer.

(b) Material Relating to Executive and Non-Executive Decisions and to Previous Business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or a committee of the Cabinet or an individual Cabinet Member or a committee or sub-committee of the Council and contains material relating to any business to be transacted at a meeting or previously transacted at a meeting
unless either (i), (ii) or (iii) in (a) above applies, in which case the procedures in (a) 1 - 3 above will apply to any requests for access to confidential or exempt information.

(c) **Restriction on Disclosure of Confidential and Exempt Information**

The Code of Conduct set out in this Constitution restricts the disclosure of information by members which they have gained as County Councillors when the information is confidential or exempt or is marked “Not for Publication”. Such information should not therefore be made available by the member concerned to the public. When the Proper Officer has restricted circulation of the report it should not be passed on to another member without the Proper Officer’s consent (which will be based on a determination of a ‘need to know’). Information classed as confidential or exempt may nonetheless become disclosable at a later date. Any questions concerning the application of the restriction will be determined by the Monitoring Officer.

(d) **Dealing with Difficulties**

If members are not receiving, or are having difficulty in obtaining, information which they feel they need or to which they are entitled in order to carry out their duties as a county councillor they should contact the Monitoring Officer, just as officers will seek guidance from her/him.

12. **Criminal Records Checks for Councillors**

In accordance with the Council’s decision on 10 September 2013, all Councillors will be required immediately after their election to undergo a criminal records check through the Disclosure and Barring Service (DBS). No councillor or co-opted member shall be required to undergo checking if s/he has been the subject of a DBS check within the previous twelve months of her/his election or appointment. Where this is the case, that person shall notify the Monitoring Officer of the existence and outcome of such a check immediately after her/his election or co-option.

13. **Access to County Council Establishments**

(a) Members should have access to any County Council establishments or premises where this is necessary for them to discharge their responsibilities as County Councillors. However, members should always inform the manager of the establishment or a senior officer responsible for the service before they visit to ensure that it is convenient to do so.

(b) Members should be sensitive to the fact that some establishments will be home to those who live there and they should therefore seek to ensure that their visit does not adversely affect the running of the establishment or disturb the residents who live there.
(c) Where members wish to undertake activities in any County Council premises, this should be purely in connection with their duties as County Councillors and not for any other purpose.

14. Use of County Council Equipment and Services

Where facilities, equipment and services are provided to members this is made available on the basis that it is to enable them to carry out their activities as County Councillors and should be used only on that basis. A separate policy (including an Annex for councillors and co-opted members) on the acceptable use of ICT has been agreed by the Council and it is appended to this Protocol.

15. Nature of Rights

The rights of members set out in this Protocol are additional to any other rights conferred by this Constitution or which s/he may have under the law.
COUNCILLOR CALL FOR ACTION (CCfA) – GUIDANCE FOR MEMBERS

1. Introduction

As part of their community leadership role Members have always sought to resolve issues on behalf of their constituents. Section 21A of the Local Government Act 2000 provides an additional avenue for members to pursue issues if they feel the traditional methods of resolution have not achieved the desired outcome. The Councillor Call for Action (CCfA) will provide members with the opportunity as a means of ‘last resort’ to request that an issue affecting their electoral Division and which is of local concern to their constituents is included on an agenda of the relevant Scrutiny Committee.

CCfA can be used for issues designated in the Act as ‘local government matters’ 1. As well as council specific functions, members can use CCfA in relation to the Council’s partners and their responsibilities for delivering Local Area Agreement targets. Additionally, under the Police and Justice Act 2006 members are also able to raise a crime and disorder matter in their area using the CCfA mechanism (but only in respect of those partners who are represented on Crime & Disorder Reduction Partnerships and in relation to the discharge of their crime and disorder functions).

This guidance is aimed at assisting members to make best use of the new powers.

2. How should I attempt to resolve a local issue?

Members have traditionally used a wide range of ways to try to resolve issues on behalf of their constituents. The following list highlights a number of approaches commonly taken:

- Informal and formal discussions with Cabinet Members and senior officers
- Communication with members in other authorities
- Communication with local MPs
- Raising the issue at an appropriate local group or partnership body
- Formal letters written on behalf of constituents
- Where appropriate organising local meetings or holding a public meeting
- Providing advice about or helping with petitions
- Questions at Committee, Cabinet or Council
- Submitting a motion to Council
- Requesting that a topic for review is included in the scrutiny work programme
- Assisting with a formal complaint
- Giving advice about a Freedom of Information (FoI) request
- Web or e-mail based campaigns

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1 “local government matter”, in relation to a member of a local authority, means a matter which—
(a) relates to the discharge of any function of the authority,
(b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
(c) is not an excluded matter. (see section 6 below: ‘When will CCfA not be taken forward?’)
This is not a hierarchical list and members will choose different routes depending on personal preference and the issue in question. If there is no resolution of the issue and a local member feels that insufficient action has been taken to try and resolve it then they can use the CCfA to raise the issue at the relevant overview and scrutiny committee.

As all members of the Council are able to refer an issue in their area to the relevant Scrutiny Committee, in multi-member electoral Divisions the agreement of the other member(s) in the Division to take this action would not be required. However, in making a case to the Committee it will be more powerful if all the County Councillors in the Division have discussed the issue and agree that its referral is appropriate. In the case of District Council functions it will be for a District Councillor within the area to take up the issue with a District Council Overview and Scrutiny Committee. Often, more complex issues will affect both the County and District Councils and also partner bodies, in these cases it would again make a more powerful case if all the Councillors in the area are agreed on how the issue should be dealt with and to which Council the CCfA will be referred. This will also help to avoid duplication and confusion on the part of partners and the public.

3. **Examples of where members may wish to use CCfA**

The following are examples of where a member may wish to use a CCfA if other avenues of resolution have failed:

- Sustained poor performance at a school
- A series of complaints about recycling services in a local area, which demonstrate a continuing trend of poor performance
- Poor access to a particular public building for users where no one organisation is taking responsibility for the issue
- Persistent drainage and flooding problems in a residential area
- Continued public transport problems in relation to a group of villages

Government Guidance on behalf of the Department for Communities and Local Government - together with the Centre for Public Scrutiny gives further examples of how this new power might be used.
4. **What is the process for the CCfA to be discussed at a Scrutiny Committee?**

Where a member is satisfied that s/he has tried all the appropriate avenues to resolve a local issue without success and they wish to proceed with a CCfA only then should the process be initiated by giving notice in writing to the Proper Officer **not less than 15 working days before the next meeting of the Scrutiny Committee**.

The notice to the Proper Officer should set out clearly what the issue is about, what resolution is being sought, what steps have already been taken and the outcome. The member should enclose any background papers and copies of any relevant correspondence.

Where the issue involves the functions of more than one Scrutiny Committee, the Proper Officer will, after consulting with the Chairmen of the relevant Scrutiny Committees, decide which of the Committees will deal with it. Prior to the issue being placed on the agenda for the appropriate Scrutiny Committee, a meeting will normally be held between the member putting forward the CCfA and the Chairman and Deputy Chairman of the Committee in order to agree how it will be handled. The meeting gives an opportunity for them, along with the relevant officer/partner representatives to agree:

- Outcomes expected by the member putting forward the CCfA
- Key issues to be addressed at the meeting
- The information required
- Relevant witnesses who may be called at a future meeting, if the matter is subsequently taken forward by the committee

At the meeting of the Scrutiny Committee the local member(s) will be asked to outline the issue and what actions s/he has taken to try to resolve it locally. The Committee will be able to question the local member(s). The Committee will then need to decide whether or not it wishes to take up the issue on behalf of the local member. If the Committee decides not to take up the issue it must give its reasons for not doing so to the local member.

If the local member is not able to attend the meeting, a written statement outlining the issues must be submitted for the Committee’s consideration at the meeting. If the Committee decides not to proceed further with the CCfA it must notify the member of its decision and the reasons for it.

5. **What options are there for a Scrutiny Committee in pursuing a CCfA?**

If the Scrutiny Committee decides to pursue the CCfA, it then needs to decide how to deal with the issues raised and identify solutions to be recommended. This will include consideration of relevant evidence and the hearing of witnesses, as appropriate. How the Committee chooses to deal with the CCfA issues will depend upon the complexity of them and whether or not they have wider implications for the
policies or service delivery of the Council or its partners. The following are some examples of how a Scrutiny Committee might take a CCfA issue forward:

- The issue is dealt with at a single committee meeting either as a stand-alone item or as part of a larger issue the Committee is addressing
- The issue is used as evidence within an existing piece of scrutiny work which has a wider remit
- A Scrutiny review group is established to investigate the issues
- A Joint piece of scrutiny work is initiated between local authorities

Following its investigation into the issues raised by the CCfA the Scrutiny Committee can make recommendations in the usual way to the Cabinet or partner body to seek a resolution of the issue. A copy of any report or recommendations made by the Committee must be given to the member who raised the CCfA.

6. When will consideration of a CCfA be excluded?

The legislation\(^2\) sets out a small number of exclusions from CCfA if:

- The matter is vexatious, discriminatory or not reasonable to be included in the agenda or included for discussion at the Scrutiny Committee
- The issue is one where an individual or body has a statutory right to a review or appeal\(^3\) (other than a right to complain to the Local Government Ombudsman)
- Matters relating to planning or licensing decisions.

In relation to the last two exclusions, if the issues relate to a systematic failure in the discharge of a function, they can still be the subject of a CCfA.

Regardless of whether a CCfA is successful, the issue will be logged in order to ensure that common themes are identified to inform the scrutiny work programme.

7. Where can I find out more?

The following websites are a useful source of information on CCfA:

[www.cfps.org.uk](http://www.cfps.org.uk)

[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

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\(^2\) The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012

\(^3\) This includes individual staff matters and legal proceedings
Flow Chart for Councillor Call for Action (CCfA)

Councillor decides there is a local issue that relates to a local government or partnership function

Councillor attempts to resolve issue through traditional avenues, e.g., discussions with officers/members.

No further action

Issue is resolved

Issue is not resolved

Councillor refers issue to relevant Overview & Scrutiny Committee(s)

All appropriate avenues for resolution exhausted?

Yes

Item placed on Overview & Scrutiny Committee agenda for discussion

No

Issue accepted as in line with guidance

Issue is rejected on grounds that it is not in line with the guidance

Issue is logged to inform future work programme planning

Overview and Scrutiny Committee reviews the issue and makes recommendations to decision maker(s)

Cabinet/Partner response to recommendations within 2 months

Implementation of recommendations are monitored at a predetermined date

9 December 2014
ICT Acceptable Use Policy Appendix for Councillors and Co-opted Members

1. Purpose

This annex sets out guidance for councillors and co-opted members on the acceptable use of council ICT facilities and should be read in conjunction with the ICT Acceptable Use Policy.

All councillors need to use County Council’s ICT facilities in carrying out their duties as a member of the council and as an elected representative of their local area. Co-opted Members may need to use the County Council’s ICT facilities in their capacity as a co-opted member of the Council and as a representative of a body or group. This guidance should be followed by all councillors and co-opted members when using council ICT facilities at home, in council premises or elsewhere.

2. What are your responsibilities?

Members’ Code of Conduct

Under Section 6 (2) of the Members’ Code of Conduct you: must when using or authorising the use by others of the resources of your authority:

(a) act in accordance with your authority's reasonable requirements; and

(b) ensure that such resources are not used improperly for political purposes (including party political purposes)

3. What does the Policy include?

This Policy includes the use of the following, which should only be used for council business purposes:

(a) Council provided equipment e.g. laptops, desktop PCs, printers, photocopiers, phones, mobiles, PDAs (e.g. BlackBerrys), fax machines.

(b) Council provided systems e.g. email, internet, intranet, Word.

(c) Council provided consumables and devices e.g. memory sticks.

(d) Council provided broadband connections
4. **Policy compliance**

Any breach of the Policy by a member, or exceptions to it, will be dealt with by the Council’s Assistant Head of Finance (Audit) or the Monitoring Officer. Any serious breach of the Policy will be referred to the Monitoring Officer if it appears also to be a breach of the Members’ Code of Conduct.

If you believe that others are not using systems appropriately then you should contact the Council’s Monitoring Officer or the Assistant Head of Finance (Audit) – see Raising Serious Concerns & Whistleblowing guidance for councillors.

5. **Not to be used for purely Political Purposes**

Any ICT facilities provided by the Council for elected members to carry out their duties as councillors are to be used for those duties only. The Council’s ICT equipment, systems and devices should not be used for purely party political purposes e.g. canvassing and electioneering etc.

Examples:

(a) Councillors should not:

   (1) use council facilities to publish purely political material, including party political material.

   (2) publish their County Council email address on election campaign publicity i.e. a separate email address must be used.

(b) Councillors can:

   (1) Reply to and deal with all queries/correspondence from constituents on council provided facilities

   (2) Use council facilities to publish details of councillor surgeries

   (3) Continue to use ICT facilities for councillor-related duties during the period leading-up to an election

6. **Not to be used for Private Business Purposes**

Council facilities, including information and officers, should not be used for private business purposes or for furthering your business interests. When dealing with councillor-related business you should not be publicising your professional business.
7. **Removable media**

If members need to use memory sticks then only those supplied by ICT Services should be used. These memory sticks have an automatic password facility to ensure no unauthorised access to the data. Contact the ICT Service Desk.

8. **Communications – Security**

**Locking screen**
- When going away from a computer but leaving it switched-on, the screen must be locked by pressing Ctrl-Alt-Delete simultaneously then clicking Lock Computer. When returning to the computer, unlock it by pressing Ctrl-Alt-Delete and typing in your log-in password.

**Log-in Password**
- When using computers at County Hall periodically you will receive a message to state your current password will expire and ask you to change your password. If your password has expired without being changed then contact the ICT Service Desk.

9. **Using the Internet**

**Internet Search**
- Be careful about the keywords you put into an internet search facility to ensure you do not accidentally access an unauthorised website

**Access to unauthorised site**
- If you do accidentally access an unauthorised website then inform the ICT Service Desk as soon as possible.

10. **Returning Equipment**

Where a Member is not re-elected or has to or chooses to stand down, IT equipment loaned to that person must cease to be used and must be returned within a month.

If the Democratic Support Manager requests the return of any equipment at any time then this request must be complied with.

**Related documents:**
Members’ Code of Conduct
Raising Serious Concerns & Whistleblowing guidance for councillors
Access to Information Procedure Rules
Protocol on Members Rights and Responsibilities
ICT Services
ICT Acceptable Use Policy

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1. Policy Statement
This policy sets out the Council’s requirements for ICT Acceptable Use.

2. Purpose
Council staff, contractors and Councillors will be required to have access to the Council’s ICT systems, applications and equipment in the performance of their duties in order for them to carry out their business. For all users of the Council’s ICT facilities, this policy describes the Council’s position on acceptable usage.

3. Scope
This policy applies to all users of the County Council’s ICT facilities whether this is at work, at home or elsewhere. The policy applies to all users who may be employees, contract staff, temporary staff, volunteers or Councillors

4. Risks
Oxfordshire County Council recognises that there are risks associated with users accessing and handling information in order to conduct official Council business.

This policy aims to mitigate the following risks:
• the non-reporting of information security incidents,
• inadequate destruction of data,
• the loss of direct control of user access to information systems and facilities etc
• misuse of the Council’s ICT facilities

Non-compliance with this policy could have a significant effect on the efficient operation of the Council and may result in financial loss and an inability to provide necessary services to our customers.

5. User Responsibilities
As a user of ICT facilities, you are responsible for:
• Informing your manager under the Raising Concerns at Work procedure if you believe that others are using systems appropriately
• Notifying the ICT Service Desk if you believe that your personal login details have become known to another person
• Safeguarding personal data
• Contacting the ICT Service Desk if you suspect a virus infection
• Ensuring that personal use of Oxfordshire County Council ICT equipment remains occasional and reasonable and does not interfere with everyday workload and commitments or endangers the Council’s ICT services
• Understanding this policy and completing the on-line ICT Acceptable Use course provided by Oxfordshire County Council
6. Managers Responsibilities

Managers are responsible for ensuring that all their employees are aware of this policy and act in accordance with its requirements.

7. Privacy

All systems may be monitored and audited for administrative and management purposes so personal privacy cannot be assumed.

Systems may be accessed at management discretion during an individual’s absence to ensure continuation of business.

8. Policy Compliance

If any user is found to have breached this policy, they may be subject to Oxfordshire County Council’s disciplinary procedure. If a criminal offence is considered to have been committed further action may be taken to assist in the prosecution of the offender(s).

If you do not understand the implications of this policy or how it may apply to you, seek advice from your line manager.

9. Policy Governance

The following table identifies who within Oxfordshire County Council is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- **Responsible** – the person(s) responsible for developing and implementing the policy.
- **Accountable** – the person who has ultimate accountability and authority for the policy.
- **Consulted** – the person(s) or groups to be consulted prior to final policy implementation or amendment.
- **Informed** – the person(s) or groups to be informed after policy implementation or amendment.

<table>
<thead>
<tr>
<th>Responsible</th>
<th>Head of ICT Services</th>
</tr>
</thead>
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<tr>
<td>Accountable</td>
<td>Asst Chief Executive &amp; Chief Finance Officer</td>
</tr>
<tr>
<td>Consulted</td>
<td>Asst Head of Finance (Audit), HR Business Partner, Head of Legal Services, Information Governance Group</td>
</tr>
<tr>
<td>Informed</td>
<td>All Council Employees and Contract staff, Councillors</td>
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10. Review and Revision

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 12 months.

Policy review will be undertaken by Deputy Head of ICT Services

11. References

The following County Council policy documents are directly or indirectly relevant to this policy:

- Email Policy
- Software Policy
- ICT Access Policy
- Removable Media Policy
- Human Resources Information Security Standards
- Information Security Incident Management Policy
- Communications and Operation Management Policy
- ICT Infrastructure Policy
- Computer, Telephone and Desk Use Policy
- Remote Working Policy
- Legal Responsibilities Policy
- Information Protection Policy

All these policies may be found on the County Council’s Intranet.

12. Infrastructure Security

- Desktop PCs should not have data stored on the local hard drive
- Document Manager and Network Drives must be used to store data and documents
- A Laptop hard drive may be used only temporarily to retain documents being moved from one system to another
- Use of OCC equipment by friends or family is strictly forbidden
- Non-electronic information must be assigned an owner and a classification. PROTECT or RESTRICTED information must have appropriate information security controls in place to protect it.
- Staff should be aware of their responsibilities in regard to the Data Protection Act.
- Equipment that is to be reused or disposed of must have all of its data and software erased / destroyed.
13. Removable Media

- It is Oxfordshire County Council policy to prohibit the use of removable media devices. The use of removable media devices will only be approved if there is a valid business case for its use.
- Any removable media device that has not been supplied by ICT must not be used.
- All data stored on removable media devices must be encrypted where possible.
- Damaged or faulty removable media devices must not be used.
- Care must be taken to physically protect the removable media device and stored data from loss, theft or damage.
- Removable media devices that are no longer required, or have become damaged, must be returned to ICT Services for secure disposal.
- Removable media devices should be used only for the transfer of data and not for permanent storage.

14. ICT Access

- Passwords must be protected at all times and must be changed when prompted.
- It is a user’s responsibility to prevent their user ID and password being used to gain unauthorised access to Council systems.
- Partner agencies or 3rd party suppliers must not be given details of how to access the Council’s network.
- Partners or 3rd party suppliers must contact the ICT Service Desk to enable any connection to the Oxfordshire County Council network.

15. Remote Access

- It is the user’s responsibility to use portable computer devices in an acceptable way. This includes not installing software, taking due care and attention when moving portable computer devices and not emailing PROTECT or RESTRICTED information to a non-Council email address.
- Users should be aware of the physical security dangers and risks associated with working within any remote office or mobile working location.
- It is the user’s responsibility to ensure that access to all PROTECT or RESTRICTED information is controlled.
- All PROTECT or RESTRICTED data held on portable computer devices must be encrypted.
16. Software policy

- All software acquired must be purchased through ICT Services
- Under no circumstances should personal or unsolicited software be loaded onto a Council machine.
- Every piece of software is required to have a licence and the Council will not condone the use of any software that does not have a licence.
- Changes to software must not be made.
- Users are not permitted to bring software from home (or any other external source) and load it onto Council computers.
- Illegal reproduction of software is subject to civil damages and criminal penalties.

17. Email

- All emails that are used to conduct or support official Oxfordshire County Council business must be sent using a “@Oxfordshire.gov.uk” address.
- All emails sent via the Government Connect Secure Extranet (GCSx) must be of the format “@oxfordshire.gcsx.gov.uk”.
- Non-work email accounts must not be used to conduct or support official Oxfordshire County Council business.
- Councillors and users must ensure that any emails containing sensitive information must be sent from an official council email.
- All official external e-mail must carry the official Council disclaimer.
- Under no circumstances should users communicate material (either internally or externally), which is defamatory, obscene, or does not comply with the Council’s Equal Opportunities policy.
- Where GCSx email is available to connect the sender and receiver of the email message, this must be used for all external email use and must be used for communicating PROTECT and RESTRICTED material.
- Automatic forwarding of email must be considered carefully to prevent PROTECT and RESTRICTED material being forwarded inappropriately.

18. Internet Use

- Provided it does not interfere with your work, the Council permits personal use of the Internet in your own time (for example during your lunch-break).
- Users must not create, download, upload, display or access knowingly, sites that contain pornography or other “unsuitable” material that might be deemed illegal, obscene or offensive.
- The laws concerning the protection of copyright and intellectual property rights must be respected.
- Downloading and storage of music and video files without a bona fide business reason is forbidden.
- Users must assess any risks associated with Internet usage and ensure that the Internet is the most appropriate mechanism to use.
- Users must not subscribe to, enter, or use peer-to-peer networks or install software that allows sharing of music, video or image files.
ICT Services
ICT Acceptable Use Policy

- Users must not enter or utilise real time chat facilities such as chat rooms, text messenger or pager programs.
- Users must not enter or use online gaming or betting sites.
- Users must not subscribe to or enter “money making” sites or enter or use “money making” programs.
- Users must not run a private business via the internet from Council equipment or premises.
- On-line shopping from a secure site is permitted in the user’s own time but the Council has no liability for any transaction and goods should not normally be delivered to the workplace.

The above list gives examples of some “unsuitable” usage but is neither exclusive nor exhaustive. “Unsuitable” material would include data, images, audio files or video files the transmission of which is illegal under British law, and, material that is against the rules, essence and spirit of this and other Council policies.

19. Use of Phones/Mobile Phones/Blackberries

- Users should ensure that, as far as practicable, private phone calls are restricted to non-work time.
- Users must comply with the Council’s specific prohibition on the use of mobile phones when driving on Council business.
- Mobile phones should not be used to distribute, receive or store any material which is offensive or prohibited.
- When Council equipment is used for personal texts or calls, these must be paid for by the user.

20. Government Connect & Information Protection

- All information assets, where appropriate, must be assessed and classified by the owner in accordance with the HMG Security Policy Framework (SPF). (See Appendix 1)
- Information up to RESTRICTED sent via the Government Connect Secure Extranet (GCSx) must be labelled appropriately using the SPF guidance.
- Access to information assets, systems and services must be conditional on acceptance of the Acceptable Use Policy.
- PROTECT and RESTRICTED information must not be disclosed to any other person or organisation via any insecure methods including paper based methods, fax and telephone.
- Disclosing PROTECT or RESTRICTED classified information to any external organisation is also prohibited, unless via the GCSx email.
- Where GCSx email is available to connect the sender and receiver of the email message, this must be used for all external email use and must be used for communicating PROTECT or RESTRICTED material.
- The disclosure of PROTECT or RESTRICTED classified information in any way other than via GCSx email is a disciplinary offence.
Appendix 1 – HMG Security Policy Framework

All information assets must be classified and labelled in accordance with the HMG Security Policy Framework (SPF). The classification will determine how the document should be protected and who should be allowed access to it. Any system subsequently allowing access to this information should clearly indicate the classification. Information up to RESTRICTED sent via GCSx must be labelled appropriately using the SPF guidance.

The SPF requires information assets to be protectively marked into one of 6 classifications. The way the document is handled, published, moved and stored will be dependant on this scheme.

The classes are:

- Unclassified.
- PROTECT.
- RESTRICTED.
- CONFIDENTIAL.
- SECRET.
- TOP SECRET.
Development of this policy was assisted through information provided by the following organisations:

- Devon County Council
- Dudley Metropolitan Borough Council
- Herefordshire County Council
- Plymouth City Council
- Sandwell Metropolitan Borough Council
- Sefton Metropolitan Borough Council
- Staffordshire Connects
- West Midlands Local Government Association
- Worcestershire County Council
OXFORDSHIRE COUNTY COUNCIL

MEMBERS’ PLANNING CODE OF PRACTICE

Members Planning Code of Practice

If you have any doubts about the application of this code to your own circumstances you should seek advice, preferably well before any meeting takes place.
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This Code:

- was originally prepared in response to the Local Government Association’s Guidance Note on the preparation of Local Codes of Good Practice on Planning and has been updated to reflect changes in law and practice since that was issued;
- is based on a Model Code which was prepared by the Association of Council Secretaries and Solicitors;
- supplements the Members’ Code of Conduct; and
- applies to:
  - Members at all times when involving themselves in the planning process
  - at less formal occasions such as meetings with officers or the public and at consultative meetings
  - both planning application matters and to enforcement matters.

The Planning System – The Members’ Role

The key purpose of the planning system is to manage development in the public interest. The Members’ role is to make planning decisions

- openly and transparently
- impartially
- for justifiable planning reasons.

This Code aims to ensure that all decisions are made in accordance with these principles.

Key Points (Golden Rules)

Planning decisions involve a balance between private and public interests where opposing views are often strongly held.

Your overriding duty is to the whole community not just to the people in your constituency.

Decisions must not only be impartial they must be seen to be impartial. You should not favour, or appear to favour, any person, company, group or locality. You should not give the appearance of pre-judging (“pre-determining”) the matter before it is considered by the Committee.

Planning decisions must be made in accordance with the statutory development plan unless material planning considerations indicate otherwise.¹

The views of officers involved in the determination of planning matters will be presented on the basis of their overriding obligation of professional independence.

¹ Section 38(6) Planning & Compulsory Purchase Act 2004
You may think that material planning considerations outweigh the development plan, or take a different view of the planning balance than is contained in the officer recommendations. You are fully entitled to do so but you will need to make sure that you can clearly identify and support the planning reasons leading to this conclusion/decision. Advice should still be sought from Planning Officers in relation to setting out the rationale for your decision.

**Essential – Do’s and Don’ts**

**Disclosable Pecuniary Interests**

**DO,** as soon as you become aware that you have a disclosable pecuniary interest in any matter to be discussed at a meeting, make a verbal disclosure of that interest.

**DO** leave the meeting before that matter is discussed or, if you realise after the discussion has begun, as soon as you have made your disclosure.

**DON’T** participate in the discussion or vote on a matter in which you have a disclosable pecuniary interest unless you have been granted a dispensation.

**DO** notify the Monitoring Officer of your disclosable pecuniary interest in writing within 28 days of your disclosure unless it is already included on your register of interests form published on the Council’s web site.

**DO** seek advice from the Monitoring Officer if you are in any doubt about what to do.

**Where you have a Disclosable Pecuniary Interest**

**DON’T** get involved in the processing of the application.

**DON’T** attend any formal or informal meeting about the application or seek to speak at meetings.

**DON’T** try to represent local views.

**DON’T** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

**DON’T** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a councillor. This would include, where you have a disclosable pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

**DO** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer (in person or in writing), the Code places greater expectations as to conduct than would be imposed on a normal member of the public.
Your Own Proposals

**DO** notify the Monitoring Officer, in writing, of your own proposals and those where you act as agent for a third party - this notification should be made no later than the submission of the application. These proposals may be reported to the Committee as main items and not dealt with by officers under delegated powers.

Where you have no Disclosable Pecuniary Interest

**Yu** may take part in the decision making process but need to take account of the following points:-

**Do** keep at the front of your mind that, when you come to make a decision, you:

- are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
- are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a member, in giving fair consideration to points realised;
- are only entitled to take into account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- are to come to a decision after giving what you feel is the right weight to those material considerations

Bias and predetermination – don’t fetter your discretion²

**DON’T** fetter your discretion by approaching the decision with a closed mind. Doing so will prevent you from participating impartially in planning decisions: making up your mind (“pre-determination”), or even appearing to make up your mind in advance of the Committee meeting, and of your hearing the arguments on both sides, may put the Council at risk of legal proceedings.

Remember:

- Planning decisions should only be taken with knowledge of all the relevant considerations, including responses to consultations where relevant. The officers' reports are intended to bring together all relevant considerations, and further matters may arise at the committee meeting. It is therefore not possible to come to a firm decision in advance of the meeting. You may have a view as to how you will decide a particular matter (“pre-disposition”) but you must keep an open mind at the meeting.

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² Members should also have regard to the Council’s more detailed guidance: *Bias and Predetermination: A guidance note for members*
Where you have Fettered your Discretion

■ Don’t speak and vote on the proposal at the meeting;
■ Although you are not required to withdraw from the meeting, you may prefer to do so to avoid any complaint that your presence influenced the decision.

You can still exercise your separate rights as Local Member where you have fettered your discretion. If you do exercise that right:

■ advise the Proper Officer or Chairman that you wish to speak in this capacity before commencement of the item; and
■ remove yourself from the room for the duration of that item.

County Council Proposals

■ DO be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than just a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits). The best advice in these circumstances is not to take part in the decision or vote on the proposals.

Participation in the Discussions of Consultee Bodies

Members may have a dual role as both members of organisations that are consulted on planning proposals and as members of the County Council’s Planning & Regulation Committee. In those circumstances:-

You may take part in discussions of the consultee body on the proposal IF you make it clear to the consultee body that:

■ your views are expressed on the limited information before you only, AND
■ you must reserve judgement and the independence to make up your own mind on the proposal based on your overriding duty to the whole community and not just to the constituents of that body, AND
■ you will not commit yourself as to how you or others may vote when the proposal comes before the Planning & Regulation Committee.
How to Deal with Lobbying

**DO** remember that your overriding duty is to the whole community not just to the people in your Division. You need to make decisions impartially. Make sure that you do not favour, or appear to favour, any person, company, group or locality.

**DON’T** declare the way you intend to vote

**DON’T** express any opinion on the merits prior to your formal consideration of the matter at a meeting(s) of the planning authority unless you make it very clear that you will only make up your mind at the meeting after hearing the officers’ presentation and evidence and arguments on both sides.

**DO** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.

*Unless you have a Disclosable Pecuniary Interest, you may:*

- listen/receive viewpoints from residents or other interested parties;
- make comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-determining the issue and you make clear you are keeping an open mind;
- seek information through appropriate channels; or
- be a vehicle for the expression of opinion or speak at the meeting as a local member, provided that, if you are a member of the Committee, you explain your actions at the start of the meeting/item and make it clear that, having expressed the opinion or local view, you will make up your own mind having heard all the facts and listened to the debate.

Dealing with Particular Groups

**Applicants/Developers**

**DO** refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable.

**DON’T** agree to a meeting with applicants or developers where you can avoid it, except where this is part of a meeting organised by an officer and at which an officer is present. (Councillors do not normally take part in officers’ discussions with applicants before a decision is taken, unless there are clear guidelines published by the Council to protect and assist councillors and officers. Where you do become involved, you should be advised by the appropriate officers and the discussions should be recorded as a written file note.)
DO ensure that you report to the Planning Regulation Service Manager any significant contact with the applicant and other parties and explain the nature and purpose of the contacts and your involvement in them. Ensure that this is recorded on the planning file.

DO make it clear that you will only be in a position to make a final decision on the application after having heard all the relevant evidence and arguments at Committee.

DO consider whether it would be prudent to make notes of what is said if no officer is present.

**Lobby Groups**

DON’T become a member of, lead or represent a lobby group seeking to promote or oppose planning proposals. If you do and you are a member of the Committee, you will have fettered your discretion.

**Political Groups**

DON’T decide how to vote at any sort of political group meeting, or press any other Member to do so, in advance of the meeting at which any planning decision is to be taken.

**Presentations**

DON’T attend presentations unless they have been organised by officers and an officer is present.

DO ask relevant questions for the purposes of clarifying your understanding of the proposals.

DO remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Committee of the planning authority.

DO be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

**Undue or Excessive Lobbying**

DO inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality). The Monitoring Officer will in turn advise the appropriate officers to follow the matter up.
Gifts and Hospitality

Be careful about accepting gifts or hospitality wherever possible. If some hospitality is unavoidable, ensure that it is not excessive or inappropriate. Whilst not a disclosable pecuniary interest, a member, nevertheless, has the option of registering this so as to demonstrate openness and transparency to avoid any allegation of corruption or impropriety.

Dealings with Officers

DON’T put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views on the proposal, which may be incorporated into any committee report.)

DO recognise that officers are part of a management structure and only discuss a proposal, except in any formal meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

DO recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council’s Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers’ views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

Site Visits

DO ensure that you treat the site inspection only as an opportunity to seek information and to observe the site.

DON’T express opinions or views to anyone.

DO try to attend site visits organised by the Council where possible.

DO ask questions or seek clarification of matters that are relevant to the site inspection.

DON’T hear representations from the applicant or third parties.

DON’T visit a site on your own, even in response to an invitation, as this may give the impression of bias. Exceptionally, where there is no organised site visit, and with the prior approval of the Planning Regulation Service Manager, the local member or in appropriate circumstances other members, may ask for an individual site visit accompanied by an officer (there is nothing preventing you from viewing a particular site from the public highway).
Communication with the Public at Committee Meetings

DON’T allow members of the public to otherwise communicate with you (orally or in writing) during the Committee’s proceedings, as this may give the appearance of bias.

Making Decisions

DO comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

DO come to your decision only after due consideration of all of the information reasonably required to base a decision upon. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request it. If necessary, defer or refuse.

DON’T vote or take part in the meeting’s discussion on a proposal unless you have been present to hear the entire debate, including the officers’ introduction to the matter.

DO ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your reasons are recorded and repeated in the report to the Committee.

DO have recorded the reasons for any Committee decision to defer a proposal.

Where the Officers’ Recommendation is not Accepted

Decisions on planning matters (unless delegated to officers) are ultimately for members to make. But decisions, whoever makes them, must be made in accordance with the development plan unless material considerations indicate otherwise 3.

If the officers’ recommendation is not to be followed, equally robust planning reasons for the decision must be given at the meeting and minuted. Those reasons must be capable of being defended at any subsequent appeal.

Officer reports will include a recommendation based on an assessment of the proposal against the development plan and material considerations, including those arising from the representations made by the applicant and consultees. The reasons for the recommendation will be set out in the report. If members take a different view at the meeting, they will need to provide equally argued planning reasons. If on reading the officer report, you form an initial impression that leads you to be pre-disposed to go against the recommendation, it may help to discuss tentative reasons with officers before the meeting.

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3 Section 38(6) Planning & Compulsory Purchase Act 2004
DO make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

**Procedure if Officers’ Advice is not to be Followed:**

**Proposer** to set out planning reasons for the proposal.

**Officers** to be given time to comment on those reasons and their ability to withstand challenge through the appeal procedures.

**Chairman** may adjourn briefly for proposer and seconder to discuss and formulate reasons with officers, reconvening for a vote and for reasons to be fully recorded. If Chairman concludes that there are opposing views amongst Committee members he may take a vote on the proposal without adjourning for discussion with officers. In such circumstances the planning reasons for the proposal should be set out in detail before the vote is taken.

**Training**

**DON’T** participate in decision making at meetings dealing with planning matters if you have not attended any mandatory planning training prescribed by the Council.

**DO** try to attend any other specialised training sessions provided. These will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

**Sanctions**

**Sanctions (including offences)**

If you do not follow this code, you may put:

- The Council at risk of proceedings on legality or of maladministration;
- Yourself at risk of breaching the Members’ Code of Conduct.

It is a criminal offence (without reasonable excuse), if you are aware that you have a disclosable pecuniary interest in a matter being considered at a meeting:

- Not to disclose that interest (unless it is already registered)
- To participate in any discussion or vote on that matter.
External Sanctions

These include:

**Local Government Ombudsman**

The Ombudsman can investigate the process by which a planning decision has been taken (though not the decision itself). If injustice caused by maladministration is found, the report may name the Member involved and give particulars of the breach. The report may be made publicly available.

**Appeals to the Secretary of State**

If an appeal is lodged and the Council is found to have been unreasonable (for example by making a decision for inadequate planning reasons) the appellant’s costs may be awarded against the Council.

**Judicial Review**

If the Council can be shown to have not followed the correct procedures in determining an application or to have taken into account irrelevant considerations, the court may quash the decision. The claimant’s costs would normally be awarded against the Council.
Protocol on Member/Officer Relations

1. Introduction

Standards of Conduct for members and officers are contained in separate Codes of Conduct set out in this Constitution. Whilst these are detailed documents, they do not cover explicitly some of the issues arising from the close working relationships which are needed between the members and officers if high value quality services are to be delivered and if the mutual confidence of members and officers is to be maintained. Any misunderstandings on these issues can, particularly at times of great uncertainty and change, give rise to unnecessary stresses and tensions which, if not resolved, can harm the effectiveness of these relationships. This protocol cannot and does not seek to cover every eventuality, but it does seek to strengthen the good working relationships which already exist, to clarify possible areas of doubt and to offer advice as to how any difficulties which might arise can best be resolved properly and speedily without recourse, if possible, to the Council's more formalised procedures. Advice on the interpretation of the protocol will be given by the Monitoring Officer.

2. Underlying Principles

(a) The following general principles apply to all relations involving Members and Officers:-

All relations shall be conducted:-

- with respect for others and in a way which promotes equality;
- with honesty and integrity;
- acknowledging the duty to uphold the law and act in accordance with the trust placed in them by the public;
- in a way which promotes objectivity, accountability and openness;
- acknowledging the duty of confidentiality that exists in relation to information given in confidence and which the Council is entitled by law to treat as confidential;
- with a view to establishing and promoting positive working relationships.

(b) Much of this protocol primarily concerns the relationship between members and senior managers, but the same principles apply to all employees (termed officers in the Constitution).
3. Roles and Responsibilities

(a) **Members**

All members have important roles to play which will include representing the views of their constituents and promoting the welfare of the communities they represent and acting together as the full Council. The Council will appoint members to serve on the Cabinet, Scrutiny and Council Committees as appropriate. Members can also be appointed to represent the Council on a range of external bodies whose work is of importance to the Council and the community. Further details on the rights and responsibilities of members are set out in the Protocol on Members’ Rights in this Constitution. The role and conduct of members is also defined by statute, primarily the Local Government Act 2000.

(b) **Officers**

(i) Officers are employed by and serve the whole Council. They are responsible for the day-to-day managerial activities and operational decisions which the Council takes and should provide support to all members in their several roles. All officers whether or not they hold politically restricted posts as defined by the Local Government & Housing Act 1989, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work. They should at all times maintain impartiality and be aware of the potential for conflict in providing effective support to members. Where an officer feels that her/his political neutrality or integrity is being compromised in any way, s/he will notify her/his Director and where appropriate the Head of Paid Service. All officers are required to abide by the County Council's Anti-Fraud and Corruption Strategy and also the Council's Code of Conduct for Officers set out in this Constitution.

(ii) Directors have responsibilities and accountabilities to the Head of Paid Service who has responsibilities for the proper management of the Authority's officers. Some officers have specific statutory responsibilities as statutory office holders as well, such as the Monitoring Officer and the Chief Finance Officer; these are set out in this Constitution. Officers are responsible to the Council through their line manager and ultimately their Director and the Head of Paid Service. The Council places considerable importance on effective communication and consultation with its officers and the Protocol on Consultation with Employees in this Constitution sets out the formal arrangements for this. Directors and senior managers are also expected to foster effective communications.
for those for whom they are responsible and to ensure that effective mechanisms are in place for doing this.

4. The Relationship Between the Cabinet and Officers

The Head of Paid Service, Directors and other senior officers, will inevitably need to work closely with members of the Cabinet if there is to be effective executive decision-making. This relationship has to function without compromising the ultimate responsibilities of officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that officers legitimately provide. The Cabinet will seek advice from the relevant officers before taking decisions. Appropriate officers should also attend decision-making meetings of the Cabinet as required.

5. The Relationship Between the Scrutiny Committees and Officers

(a) Where Scrutiny Committees are undertaking policy development and review activities commissioned by the Cabinet, officer advice and support will be made available by Directors responsible for managing those activities. It shall be the duty of all officers to provide the support necessary to enable a Scrutiny Committee to undertake policy development and review activities commissioned by the Cabinet.

(b) Where a Scrutiny Committee commissions work as part of its own programme of reviews (whether internal to the Council or external), or wishes to review a decision to be made or which has been made by the Cabinet, then officer advice and support will be provided by those staff who are directly allocated to support the scrutiny function. In addition, the Council will make funding available to enable a Scrutiny Committee to purchase internal or external support, and to pay the expenses of expert witnesses etc. to assist it in undertaking its scrutiny review role. It shall be the duty of all officers to comply with requests for information and assistance to enable the Scrutiny Committees to discharge their responsibilities effectively. The effective use of staff and financial resources will be overseen by the Co-ordinating Group of Chairmen and Deputy Chairmen as set out in the Scrutiny Procedure Rules of this Constitution.

(c) A Scrutiny Committee may ask members of the Cabinet, Directors or their nominees to attend a meeting of that Committee in order that they can be questioned about their decisions and performance. The member or officer concerned will be given 10 working days notice of the meeting and informed about the issues to be raised and whether the Committee require any background information. Where, in exceptional circumstances the relevant person is unable to attend on the required date, an alternative date shall be arranged.
(d) Where in (c) above officers are asked to attend meetings of Scrutiny Committees to answer questions, their evidence should as far as is possible be confined to questions of fact and explanation. Officers should explain what the policies are, the justification and objectives of those policies as the Cabinet sees them, the extent to which those objectives have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation. Officers may also be asked to explain and justify decisions they have taken under delegated powers.

(e) Where officers attend Scrutiny Committees in accordance with (c) above, they should as far as possible avoid being drawn into discussion about the merits of alternative policies where this is politically contentious. Where such comment is required this should be provided by a member of the Cabinet. Any comment by officers on the Cabinet's policies and actions should always be consistent with the requirement for officers to be politically impartial.

(f) Where a Scrutiny Committee conducts investigations and asks people to attend its meetings to give evidence, such meetings are to be conducted in accordance with the following principles:

(i) That the investigation is conducted fairly and all members of the Committee are given the opportunity to ask questions, contribute and speak;

(ii) That those assisting the Committee are treated with respect and courtesy;

(iii) That the investigation is conducted so as to maximise the efficiency of the investigation or analysis.

6. **Relationships Between Council Committees and Officers**

Committees of the Council shall seek advice from relevant officers before taking decisions and when considering any report or matter.

7. **Respect and Courtesy**

(a) For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between members and officers. This, too, plays a very important part in the Council's reputation and how it is seen in public. It is very important that both members and officers remember their obligations to enhance the Council's reputation and it is inappropriate for members to criticise individual officers personally in public forums where officers have no opportunity to respond.
(b) If an officer is in breach of this requirement then her/his Director or the Head of Paid Service will need to consider whether there had been a breach of the Officers’ Code of Conduct as set out in this Constitution, and what appropriate action would be taken. If a member is in breach, then the Leader of her/his political group within the County Council will treat the matter as extremely serious and, if appropriate, the Monitoring Officer will be asked to consider whether there has been a breach of the Members’ Code of Conduct as set out in this Constitution.

8. Undue Pressure

(a) In their dealings with officers (especially junior officers) members need to be aware that it may be easy for officers to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office. A member should not apply undue pressure on an employee, either to do anything that s/he is not empowered to do or to undertake work outside normal duties or outside normal hours.

(b) Similarly, an officer must neither seek to use undue influence on an individual member to make a decision in her/his favour nor raise personal matters to do with her/his job nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline.

9. Familiarity

Without detriment to the need for effective working relationships, particularly between the Cabinet and senior officers, close personal familiarity between individual members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information, or information which should not properly be passed between them, e.g. personal details. Such familiarity could also cause embarrassment to other members and/or other employees and even give rise to suspicions of favouritism. For instance, it is not generally appropriate for officers and councillors to request or accept each other as ‘Friends’ on social media such as Facebook.

10. Redress

(a) If a member considers that they have not been treated with proper respect or courtesy, they may raise it with the employee’s line manager or Director without delay if they fail to resolve it through direct discussion. If the issue is not resolved, a member may raise the issue with the Head of Paid Service who will need to consider whether there had been a breach of the Officers’ Code of Conduct as set out in this Constitution, and what appropriate action would be taken.
(b) If an officer feels the same way about a member, s/he should raise the matter with her/his line manager or Director as appropriate without delay - especially if s/he does not feel able to discuss it with the member concerned. In such circumstances the Director will take such action as is appropriate, by approaching either the individual member and/or Party Group Leader. The Director will inform the Head of Paid Service and the Monitoring Officer if the Party Group Leader becomes involved, or in any other case where that is appropriate and will approach the Monitoring Officer if it seems that there has been a breach of the Members’ Code of Conduct as set out in this Constitution.

11. Political Activity

(a) Senior officers, except those specially exempted, cannot be local authority councillors or MPs, nor can they “speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party”.

(b) Officers are employed by the County Council as a whole and are ultimately responsible to the Head of Paid Service and not to individual members of the Council, whatever office they might hold. Their conduct is subject to the application of the County Council’s employment policies and procedures and the Code of Conduct for Officers set out in this Constitution.

(c) Where attendance of officers is requested at meetings of political groups the following will apply:-

(i) Officers must not be involved in advising any political group of the Council or attend any of their meetings in an official capacity without the express consent of their Director and the Head of Paid Service. All requests for attendance of Directors or their appropriate representative at group meetings shall be submitted by the appropriate political group to the Head of Paid Service with a brief note of the items to be discussed.

(ii) Directors invited to attend group meetings may be accompanied by such other officers as they consider necessary and such other Directors or their representatives as the Head of Paid Service may consider desirable in the light of the items to be discussed. No officer shall be required as a condition of her/his service to attend political group meetings, if s/he prefers not to so do.

(iii) Where officers attend political group meetings, members present should be particularly mindful of the political neutrality of officers. Members should avoid making any comments which would compromise the integrity and impartiality of the officers present. They should also avoid situations which involve conflicts between the interests of the political group and the interests of the Council.
(iv) Proceedings at group meetings are confidential and officers must not disclose information obtained from such meetings to other persons without the consent of the Leader of the Group concerned.

(v) Meeting of Political Groups shall not be deemed meetings for the purposes of this Constitution.

(vi) This procedure does not apply to Directors or, with the Directors’ agreement, their staff involved in informal private meetings of the Cabinet with the County Council Management Team. Nor does this procedure obviate the necessity for regular contact between the Head of Paid Service, Directors and other senior officers and the Cabinet, the Leader and Deputy Leader of the Council and other members of the Cabinet, the Chairman and Vice-Chairman of the Council, the Chairmen and Deputy Chairmen of Scrutiny Committees and Council Committees, other members or the leadership of political groups.

12. Press and Media

Officers dealing with the press and media, and any press/media releases that are issued on behalf of the Council, should not seek to further the interests of a political group or a particular member other than as a representative of the Council. The Council will follow such national codes and guidance on press and publicity as are in force from time to time.

13. Application of Protocol to Non-Councillors

This Protocol shall apply as appropriate to non-councillors who are members of any Committee or Sub-Committee of the Council. They will also have the same rights to advice from officers on Council related matters as members have.
Officers’ Code of Conduct

Accountability

1. The public is entitled to expect the highest standards of conduct from all Council officers. Your role is to serve the Council in delivering services to the local community, providing advice and implementing its policies. In performing your duties, you must act with integrity, honesty, impartiality and objectivity.

2. You are accountable to, and owe a duty to, the Council. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector officers to discharge public functions reasonably and according to the law for the benefit of the community that you serve.

Status of the Code

3. The Code sets out the minimum standards that apply. It may be supplemented and clarified by directorate guidance where necessary. The aim of the Code is to lay down guidelines for Oxfordshire County Council officers that will help maintain and improve standards and protect officers from misunderstanding or criticism. The rules often set a higher standard than might be set in the private sector. All up to date policies and protocols indicated in *italics* after each section, can be found on the Council’s intranet.

4. Where the Council has a policy or protocol that provides more detail on specific issues, the name of the policy or protocol is in italics at the end of a section.

Who the Code Covers

5. This code covers all employees (except school staff who are subject to their own professional code of conduct and their school’s board of governors) under a contract of employment with Oxfordshire County Council, and includes permanent, temporary, part-time, casual and agency staff.

Key Points

6. There are 3 key points to remember in all that you do. **Ensure your conduct:**
   
   o is never influenced by personal gain;
   o could not give anyone reason to question your motives;
   o is always in line with the Council’s policies and procedures.

The Council’s Constitution

7. The Council has certain powers and duties that are set out in a formal document, the Constitution. The Council must act under the Constitution and the law; otherwise it will be acting ultra vires, that is, beyond the scope or in excess of its legal power or authority. While you may not use the Constitution in your day-to-day work it is a useful reference for all matters relating to the
composition of the Council, rules about members and committee meetings, financial and procurement procedures and other issues of relevance to officers.

*The Constitution*

**Values**

8. The Council is committed to living out its values. These are:

We do the best we can for residents:

This means we:
- work together in a supportive and honest way
- strive to find the best solutions
- are open to change and doing things differently

9. The Cabinet has also agreed that the promotion of equality and social inclusion is a corporate commitment standing alongside and integrating with our values. This is supported by the Council’s Comprehensive Equality Policy.

**Relations with Members of the Council, Public and Other Officers**

10. The Council frequently works in partnership with other organisations, both in the public and private sector. It is therefore vital that all officers conduct themselves in an exemplary manner in all aspects of their work, in particular:

- Mutual respect between officers and members is essential to good local government, and working relationships should always be kept on a professional basis;
- You should avoid close personal familiarity with individual members as this could prove embarrassing to other officers and members;
- You should deal with the public, members and other officers sympathetically, efficiently, with courtesy and respect and without bias.

Further guidance and information can be viewed in the Council’s *Protocol on Member/Officer Relations* in the Council’s Constitution.

**Prevention of Fraud & Corruption**

11. Officers have an important role to play in relation to protection against fraud and corruption. You should report any concerns, associated with the Council’s finances, resources and responsibilities, to your Line Manager or another senior officer.
12. Bribery is the act of offering money or other incentives to persuade somebody to do or not to do something, especially something dishonest or illegal. The Bribery Act makes it an offence for UK citizens and residents to pay or receive a bribe either directly or indirectly. This includes transactions that take place in the UK and abroad, and in both private and public organisations.

13. You must be aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the officer to demonstrate that any such rewards have not been corruptly obtained.

14. The Council’s Anti-Fraud and Corruption Strategy and Bribery Act Policy offer further guidance.

**Political Neutrality**

15. You serve the Council as a whole. It follows you must serve all members and not just those of any single political group, and must ensure that the individual rights of all members are respected. Some officers may also be required to advise political groups. You must do so in ways that do not compromise your political neutrality.

16. Politically restricted posts fall into two broad categories: specified posts and sensitive posts.

**Specific posts:**

- Chief Executive;
- Statutory Chief Officers, (Director of Children’s Services (DCEF), Director of Adult Social Care (DASC), Chief Fire Officer, Chief Finance Officer (CFO) and Monitoring Officer;
- Non-statutory chief officers reporting directly to the Chief Executive;
- Deputy chief officers (deputy directors)
- Officers exercising delegated powers (Constitution Part 7.2), through the Schemes of Delegation (Powers).

**Sensitive posts:**

A sensitive post is one which meets one or both of the following duties:

- Giving advice on a regular basis to:
  - The council itself, any committee or sub-committee of the council, any joint committee on which the council are represented; or
  - The cabinet, any committee of the cabinet; any member of the cabinet who is also a member of the council;
- Speaking on behalf of the council on a regular basis to journalists or broadcasters.
17. This restriction includes a prohibition on public acts in support of a political party such as canvassing and speaking or writing publicly in a personal capacity on subjects that are politically controversial, but other public protests can be made in the same way as other officers.

18. Whether or not your post is politically restricted, you must not allow your own personal or political opinions to interfere with your work.

19. The Council’s Protocol on Member/Officer Relations in the Council’s Constitution offers further guidance.

Conduct in Public and Written Protests in the Public Arena

20. You should always act in ways that will not bring the Council into disrepute and not harm its reputation, for example not expressing publicly personal views which conflict with the policies of the Council or which damage the reputation of the Council. If you attend lobbies or rallies (including trade union meetings) you should not display abusive posters or other material. If you are unsure on this point you should seek guidance from your Line Manager, or trade union representative. You should not wear Council uniforms at public protests without the consent of your Line Manager.

21. If you publicly express views as a trade union officer these should be clearly acknowledged as the views of the union so that there can be no confusion with the views of the Council.

22. If you wish to protest against Council policy you must not use the Council’s headed notepaper, work time or Council facilities to do so and if you write to newspapers or otherwise publicise your personal views you must be careful not to imply that you are speaking on behalf of the Council.

Equality and Human Rights

23. There is a clear obligation on you to ensure that any action you take falls within the Equality and Human Rights framework, and is a proportionate response to the objectives you are seeking to achieve. The Equality Policy sets out how the Council and members of staff will approach their responsibilities for ensuring that all residents in Oxfordshire have a fair access to services and equal life changes. The Council also recognises that all individuals have fundamental human rights and therefore adopts a right based approach to equality. Under the Human Rights Act 1998 you have an obligation to ensure that service decisions taken are made with reference to a person’s basic human rights such as the right to privacy and family life, the right to a fair hearing and the right not to suffer degrading treatment.
Proper Use of Council Resources

24. The Council is responsible for the efficient use of the public resources it controls including financial resources, equipment and its staff. You must not use Council premises, property, vehicles or other Council facilities unless authorised to do so. You must not do work that is not Council work of any sort in Council premises or by using Council equipment or materials, or during the Council’s time. Some facilities, such as reprography (photocopying), may be made available to officers for private use on agreed terms and with prior approval.

25. All officers have a duty to abide by the highest standards of probity in dealing with financial issues. You should assist the Council in discharging its obligations to follow proper accounting practices and to secure best value. You must operate within the required accounting standards and timetables to ensure that all the Council’s transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.

26. You are required to ensure that the Council Internal Audit Services and the Council’s external auditor are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work. You are obliged to provide the auditors with any information and explanations that they seek in the course of their work.

Use of Technology, Telephones, Internet and Email

27. Use of computers may be an important part of your duties. You should be familiar with the rules relating to personal use of equipment, the prohibitions on accessing or downloading racist, sexist, pornographic or violent websites or material, virus protection and the use of unapproved software.

28. Officers may make personal telephone calls whilst at work but such calls should be limited as much as possible and payments made for use.

29. The Council does allow for limited personal use of e-mail and the internet (if you have reasons to be connected for work purposes), providing that it is not excessive, does not interfere with your normal activities and it is made clear that any message sent is not on behalf of the Council. The Council’s Acceptable Use of ICT Policy provides further guidance and requirements on the proper use of the Council’s ICT resources.

Intellectual Property

All creative designs, writings, drawings and inventions you produce which are directly related to your employment remain the property of the Council. Specific requirements may be set out in an officer’s terms of employment, job description and those arising from an instruction from a manager or other authorised representative of the Council.
Copyright

30. It is your responsibility to ensure that copyright is not breached when making copies from newspapers and other materials:

- Copies of newspaper materials may only be made by council employees within the conditions of the Newspaper Licensing Agency;
- Copies of other materials may not be made unless you have permission from the holder of the copyright, and you can only photocopy copyright items if they are single copies for private study or research for non-commercial use.

Environmental Considerations

31. You must be aware of the Council’s objective to protect the environment and you are required to consider sustainability issues when undertaking your duties, including the procurement of goods and services. In particular you should seek opportunities to improve and promote energy conservation, advocate recycling and waste minimisation, reduce pollution and support positive Council initiatives to improve the environment. You should limit travel on Council business to that which is unavoidable and walk, cycle or use public transport if possible.

Raising Concerns at Work - Grievances and Whistleblowing

32. The Council is committed to the highest standards of openness, probity and accountability.

33. If you have any concerns arising from:

(a) your employment contract or employment in general there is a grievance procedure to be followed. You should raise any such issues with your Line Manager in the first instance or another senior officer;

(b) any other aspect of the Council’s operations, such as if you become aware of any activities that you believe are illegal, improper, unethical or in some other way inconsistent with this Code, or the Council’s Constitution, policies and procedures, there is a procedure for these concerns which follows the requirements of the Public Interest Disclosure Act 1998.

34. The Council has Whistleblowing Policies for the public and for staff.

Confidentiality

35. Openness in the dissemination of information and decision-making should be the norm in the Council. However, you must respect the confidentiality of the information to which you have access at work and you must not use it for personal gain or pass it on to others who might use it in this way.
36. You must not tell anyone inside or outside the Council who is not entitled to know for the purposes of their job, what goes on at Council meetings held in private or exempt sessions, nor about the contents of Council documents which are confidential or exempt (unless requested under the Freedom of Information Act and an exemption applies).

37. Officers must be aware of the Council’s requirements with regard to Freedom of Information and Environmental Information Regulation requests and comply with them so that requests are completed appropriately within the statutory timeframes.

**Data Protection**

38. The Data Protection Acts give people certain rights and give the Council (and you as a Council officer) responsibilities for personal information. These responsibilities relate to:

- Getting information fairly
- Registering new uses of the information
- Making sure there are enough details but not too many, and that details are accurate, up to date and not kept for longer than necessary
- Allowing people (whose details the Council holds) access to their files and the right to correct or delete incorrect information; and
- Ensuring personal and confidential information is kept safe.

39. The legislation not only provides for data held on computer systems, but also that held on ‘relevant filing systems’ such as manual filing systems.

40. Both you and the Council may be prosecuted if there is a breach of this law. If you suspect there is a problem or you need advice please consult your Line Manager or your data protection representative.

41. You must not give confidential information about the Council’s clients to anyone unless they need it to help the client or prevent serious harm to the client or others. If possible you should get the client’s permission before giving information about them to others.

**Private Interests**

Whilst your private life is your own concern, you must not allow your private interests to conflict with your public duty by misusing your official position to benefit yourself or others. In order to demonstrate openness and transparency in local government and to protect yourself and the Council from accusations of bias, you must declare and register certain interests if an actual or potential conflict arises with regards to a Council decision or policy. You will also need to make a further declaration if a declaration you made previously has materially changed.
42. Some interests must always be declared such as membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

Policy on Declaring and Registering Interests

Gifts and Hospitality

With regards to gifts and hospitality, for you as a Council employee, the rules are quite different to those of employees in private industry. The rule is that all gifts and hospitality should be tactfully refused. In some situations, occasional small gifts or hospitality under £50 in value may be permitted unless this gives the impression of influence or reward. Frequent receipt (i.e. more than two in any three month period) of gifts or hospitality of less than £50, must be reported to your Line Manager. You cannot accept any gift or hospitality over £50 in value without first obtaining the consent of your Line Manager and registering it. In any event, you should never invite or encourage a gift or hospitality and, if you are in any doubt, seek the advice of your Line Manager. Further guidance is contained in the Council’s Gifts and Hospitality Policy.

Secondary Employment

43. You should not take on:

- other work without consulting with your Line Manager;
- outside employment which conflicts with the Council’s interests or may bring the Council into disrepute;
- other work which may cause you to exceed the ‘Working Time Directive’ or which may put your health at risk.

Constitution – Protocol for Employees working part-time and/or temporarily for or providing consultancy to, other bodies or councils (NB: includes secondary employment).

Involvement in Other Organisations

44. Many of the Council’s objectives are delivered by developing partnership arrangements with other public and private sector organisations or community groups. You may also be asked to take part in voluntary activity or offered a role in a voluntary organisation. In these situations the following applies:

(a) It is important that you clarify the role expected of you and whether you are acting in your own right or as the voice of the Council;

(b) If acting for the Council, you should clarify what authority is vested in you by the Council and other partner organisations by checking with your Line Manager as to the extent of your participation or authorisation. Liability can arise from formal membership of external organisations, and
you should seek further advice from your Line Manager if you have reason to believe that any liability may arise;

(c) If you are acting on behalf of the Council, then you are subject to this Code.

45. In any event, you should not accept any appointment, be it on a school governing body or with any other public organisation without the express permission of your Line Manager.

Constitution – Protocol for Employees working part-time and/or temporarily for or providing consultancy to, other bodies or councils

Relations with Contractors or Suppliers

46. It is the responsibility of all officers to ensure that, when administering Council contracts, every contract made by or on behalf of the Council complies with all relevant European Union and United Kingdom Legislation and as provided for in the Council’s Contract Procedure Rules or other applicable procedures. Any officer who is authorised to carry out any of the Council’s contract functions must undertake all necessary training effectively to discharge this responsibility. Officers shall not commit the Council to incur expenditure for the supply of goods, services, works or capital projects unless they are authorised under the Directorates’ Scheme of Delegation and financial provision has been authorised.

47. You must award contracts or orders on merit, dealing fairly with all customers, suppliers and contractors, to achieve best value for the Council including the following considerations:

  o You must tell your Line Manager and register in the Register of Interests any relationship you have with a contractor or supplier with whom you are also involved at work.
  o If friends or family are involved as potential suppliers, you should not be involved in the selection process at all and you must not favour current or past officers or their partners, close relatives or associates when awarding contracts or orders to businesses for which they work.
  o If the Council decides to outsource the supply of any goods or services and you or you and your colleagues are considering a management buy-out you should discuss this with your Line Manager immediately and register it in accordance with the Declaration of Interests policy. You must not then take part in any relevant contract awarding process.

48. It’s your responsibility to follow the Council’s Policy on Declaring and Registering Interests.
Appointment of Staff

49. If you are involved in the recruitment and appointment of staff you must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, you must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other officer, or prospective officer, to whom you are related, or with whom you have a close personal relationship outside work. Before you begin to be involved in recruitment for the Council you must attend in-house Council training on relevant recruitment practice.

Comprehensive Equality Policy and Recruitment Charter

Investigations by the Council’s Monitoring Officer

50. You must assist and co-operate fully with the Council’s Monitoring Officer where the Monitoring Officer is either carrying out an:

- enquiry or investigation about the lawfulness of the Council’s actions under Section 5 of the Local Government and Housing Act 1989; or
- investigation into a complaint against a member that has been referred to the Monitoring Officer under Section 28 of the Localism Act 2011.

Trade Unions

51. Trade unions are separate organisations from the Council with their own views and priorities. They play an important role in voicing the views of union members both internally within the organisation through the consultation machinery and publicly.

52. Elected trade union representatives have specific protection under employment legislation in recognition of the special role they undertake. The Council also has facilities agreements with the major recognised trade unions that regulate time off and other facilities for elected representatives.

Leaving the Council

53. After you leave the Council, you still have a duty not to disclose personal data relating to others or exempt/confidential information that you have acquired in the course of your work at the Council.

Employee Indemnity

54. The Council will, (subject to the exceptions set out in the Statement of Employee Indemnity) indemnify you in respect of any liability and claims made against you and will not itself make claims against you for any loss or damage occasioned by neglect, act, error or omission committed by you in or about the pursuit of your duties on behalf of the Council while acting within the scope of your authority.
55. The indemnity will not apply if you, without written consent of the Council, admit liability or negotiate a settlement of any claim falling within the scope of this resolution. The indemnity will not protect you from disciplinary action, if appropriate.

*Statement of Employee Indemnity*

**Use of Social Media Sites**

56. Social media sites provide communication opportunities of reaching out to the council’s stakeholders and others worldwide; as an officer of the council you are bound by the values of – integrity, honesty, objectivity and impartiality.

57. You must not allow your professional and personal use of social media sites to become blurred; you need to be mindful of your duties not to:

- Disclose council information without authority;
- Take part in any political or public activity, which compromises or might be seen to compromise your impartial service to the council and its stakeholders;
- Make derogatory comments about the council, its policies or procedures;
- Make derogatory comments about other council employees, councillors or stakeholders;
- Continue to engage with others who become abusive or aggressive.

58. Once you have posted items to the Internet, it is very difficult to remove them, great care must be taken before you press the submit button.

59. If you have any concerns consult your Line Manager for advice or authorisation.

60. It is important that you are aware that submitting any content to social media sites, whether in a personal or professional capacity, that is considered to be derogatory or inappropriate may result in disciplinary action taken against you.

*Social Media Policy and Guidance*

**Review of this Code**

61. The Monitoring Officer will regularly review this Code to ensure that it continues to be effective and up to date.
Frequently Asked Questions

What would constitute an act of bribery?
An offence would be committed if for example:
• An officer requesting, agreeing to receive or accepting an advantage in return for services;
• An advantage being secured with the “consent or connivance” of the manager;
• Officers agreeing to “fix” a procurement process or evaluation in the briber’s favour.
• NB A “financial” or “other advantage” may include money, assets, gifts, hospitality or services.

How do you define ‘confidential information’?
Confidential information is defined as information unavailable to the public that you know as a result of your job as a Council officer. For example, as a result of your work with the Council you learn that a certain residential development is planned and that the plan has not been made public. It would be improper for you to give this information to a friend or relative in the construction industry since the information is confidential, you learned it as a result of your job with the Council and it is not available to the public.

Doesn’t the Human Rights Convention give me complete privacy at work?
It is correct to state that there is a right to a respect for home and family life and correspondence but this is not an absolute right. Lawful interference is allowed if it is necessary to do so for the prevention or detection of crime, harm to others or the protection of the rights of others. Also in general terms, emails that are clearly private, confidential and personal should not be viewed by an employer.

What is meant by using Council resources for your own purposes?
Examples are that you should not use Council letter head or postage for personal letters, use a Council vehicle for personal trips, ring your mother in Australia from work without permission, operate a business in Council time, or promote products or facilities in order to gain a personal advantage.

A company doing business with the Council has offered me and my husband free tickets to the opera, can I accept?
This hospitality would be over £50 in value and would need the consent of your Line Manager and to be registered in the gifts and hospitality register whether it were to be accepted or refused. If there was any suggestion of influence or reward it should not be accepted under any circumstances and irrespective of the value. Every time a Council officer accepts a gift or hospitality from someone who does business with the Council an ethical problem and even possibly a criminal offence may occur. It does not matter whether the gift is in the form of money, a CD player, a discount not offered to all other officers, dinner at a local restaurant or a trip, or anything else.
I have received a request from a member of the public for personal information to be released. What’s my first step?
You should talk to the Data Protection Act Representative for your Directorate. Their names are set out in the Corporate Data Protection Manual.

My wife has a cleaning company and there is a Council facilities maintenance contract being tendered in which she wants to bid. How does that affect my employment with the Council?
You should immediately notify your Line Manager as you may have a conflict of interest. If you were employed in procuring those services, then you cannot be involved in the contracting process in respect of that contract. The Council must act and be seen to act without bias. In certain cases depending on your job with the Council and the circumstances, the Council would need to review whether you could continue to be employed with the Council.

Can I go on a protest march against government foreign policy?
The Council supports all citizens’ rights to free speech at all times but you must not behave in a way that could bring the Council into disrepute or harm its reputation. For example you should not carry an abusive placard or give an inflammatory speech expressing views that conflict with or damage the Council’s reputation.

I want to join the Ramblers’ Society, why is that relevant to my job with the Council?
It may be of no relevance, but it would need to be declared in the register of officers’ interests if it was a private interest that a decision of the Council might affect. For example, if the Society was concerned with a particular conservation issue and you were working in the Environment and Economy Directorate in a decision-making role concerning conservation issues. On your appointment, or if a new policy or decision by the Council changes the position or your job changes, then you may need to make a declaration or a further declaration.

I am suspicious that one of the clients where I work is being abused, what should I do?
The Raising Grievances and/or the Whistleblowing Procedure sets out the procedure that should be followed. You may wish to raise the issue with your Line Manager in the first instance.

What happens if I don’t act within the Code?
You can be subject to disciplinary proceedings.

I have interests in a number of local companies, what is the position with these?
You would have to declare and register in the register of officers’ interests, shareholdings of over £25,000 (nominal or face value of shares) in each company. If you were employed doing work for any company as a second job, then you would need to consult with your Line Manager.
Protocol on Consultations with Employees

1. Introduction

The Council is committed to regular and full communication with recognised trades unions as an important means of developing and maintaining high quality services for the people of Oxfordshire.

2. Channels of Communication

This communication mostly takes place between managers and employee representatives through informal and ad hoc means. However, the Council also has the formal channels set out below:

(i) Three Joint Employee Committees covering Teachers, Fire Service and all other employees of the Council. These Joint Committees will normally meet quarterly and will comprise nominated elected members of the Council and relevant recognised trades unions. Their function is:

- consultation and negotiation;
- resolution of collective disputes;
- to make recommendations as appropriate to the Cabinet and Council Committees;
- to consider matters which have failed to be agreed at local level or which have general application;
- other relevant matters by mutual agreement.

Each Joint Committee will define the detail of its own procedural and operating rules including arrangements for emergency meetings. For the avoidance of doubt, none of the Council, Cabinet, or Access to Information Procedure Rules set out in this Constitution apply to meetings of the Employee Consultative Committees.

(ii) Representatives of recognised trades unions may ask to meet with the Cabinet member responsible for Personnel matters. They may also address the Cabinet, any committee of the Cabinet, the Council or any committee of the Council, or a scrutiny committee, in accordance with the requirements set out in the Council Procedure Rules in this Constitution.

(iii) Nominated representatives of recognised trades unions will be sent by the Proper Officer each month a copy of the Cabinet’s four month forward plan of key decisions as set out in the Access to Information Procedure Rules at the same time as it is issued to members of the Council. The Proper Officer will also automatically send to the nominated representatives a copy of the agenda, reports and minutes of meetings of the Cabinet, any committee of the Cabinet and the
Remuneration Committee. The nominated trades union representatives may request copies of specific Scrutiny Committee agenda, reports or minutes. All such papers will be supplied free of charge.

(iv) Nominated trades union representatives may also request a copy of any background paper listed on a published report for any meeting of the Cabinet, committee of the Cabinet, scrutiny committee or committee of the Council. These will be provided free of charge by the Proper Officer.

In the case of both (iii) and (iv) above, confidential or exempt information will not be sent to trades union representatives unless there are special circumstances which would warrant this. Any matters concerning access to information are to be resolved by the Monitoring Officer.
The Respective Roles of Members and Officers and Dealing with Conflicts of Interest (Cherwell - Oxfordshire)

1. Introduction

Cherwell District Council (CDC) and Oxfordshire County Council (OCC) have created a Joint Chief Executive role and intend to create further shared posts and teams in the future. Council owned/influenced companies/organisations (Council Entities) have also been created and it is intended to create more in the future.

Shared officers will divide their time on an equal basis between the authorities or on such other basis as is agreed via the approved business case for the relevant service (although peaks of work in one or more councils may result in short term variations from this) and will at all times act in the best interests of both the authorities. Nominated officers may also spend their time serving Council Entities as set out in their letter of nomination from the councils. Underpinning this is an acknowledgment that where a smaller number of senior officers will be serving multiple organisations, there will be a need to reflect this new set of circumstances in the way in which officers have to operate.

Members of the authorities need to be sensitive to this change with regard to the respective roles of officers and members. In particular all members and officers need to be aware of the action to be taken when there is an actual or potential conflict of interest in acting for more than one organisation.

2. The Role of Members

At each authority full Council is collectively responsible for setting Council policy within the defined policy framework. The intention of the authorities is to remain sovereign bodies under the Section 113 agreement, but in setting their own Council policy they will have regard to the views and policies of the other authority and will endeavour to avoid adopting any policy which explicitly and overtly contradicts the policy of the other authority.

CDC has established an Executive to bring forward the delivery of their agreed policies. Members of the Executive are both collectively and individually accountable for carrying through the Council’s policy objectives. OCC has also established a Cabinet to bring forward the delivery of its agreed policies and members of the Cabinet are also collectively accountable for carrying through the Council’s policy objectives.
At neither of the authorities are members directly involved in the day to day provision of services to the public but members of the Executive/Cabinet will have a close involvement with officers in dealing with the effectiveness of service provision. It is recognised that on occasion this may result in the need for immediate contact with officers but where practicable such contact will be on a managed basis. In order to make best use of officer and member time, there will be mutually managed contact between Executive/Cabinet members and officers on service provision where members pursue matters on behalf of their constituents.

As only Executive/Cabinet lead members/portfolio holders have executive authority/responsibilities as members all other members will need to pursue matters with the appropriate lead member/portfolio holder or officer through a managed approach. A lead member/portfolio holder at CDC and OCC may take certain decisions on matters within their own portfolio, and within the scheme of delegation of the relevant constitution, but in doing so must be aware of any possible conflict in policy or budget.

No member (lead member/portfolio holder or otherwise) should become involved in the day to day management or operation of a service area, which shall be the responsibility of the head of service.

Members may also be appointed as Non-Executive Directors/Trustees of Council Entities.

3. Twin Hatted Members

It is recognised that councillors may serve as members on both the district and county council and that whilst for the majority of time there will be no conflicts of interest and therefore no declarations necessary at times potential conflicts of interest could arise. In these situations, members serving on joint committees or working groups shall be considered as representatives of the Council that has appointed them to that committee or working group. For other situations including their authorities’ own meetings the Monitoring Officers will provide advice to members on a case by case basis.

4. The Role of Officers

Officers are equally accountable to the Council and the Executive/Cabinet. All shared officers are equally accountable to both Councils and to the Executive and Cabinet as appropriate.

Officers are professional advisers on policy and carry out the instructions of the Council and the Executive/Cabinet as well as exercising powers that are delegated to them and taking operational decisions within their areas of responsibility.
Officers may also be appointed as Directors/Trustees of Council Entities.

The possibility of conflict between organisations should be minimised by identifying from the outset where potential conflict might arise, operating the ethical walls policy appended and referring (see Annex 1), if necessary, such conflict through the dispute resolution mechanism in the Section 113 agreement/ shareholder agreement/ Memorandum of Understanding.

5. **The Role of Directors/Trustees**

Both members and officers may be Officers and may also be nominated and appointed as Directors/Trustees of Council Entities. This will involve members and officers serving together as board members equally in terms of voting rights and responsibilities. Councillors who are Non-Executive Directors will by their nature have different and often higher levels of involvement with the organisation to which they are appointed than members would normally have. However, day to day management of operations and staff shall remain the responsibility of the managing director of the Council Entity and board collectively.

6. **How these Roles Work in Practice**

Decisions on matters relating to each Council’s policy framework are taken by members at meetings of full Council, usually after having considered the recommendations of the Executive/Cabinet or appropriate Committee which in turn considers the recommendations of the officers.

Decisions on policy matters within the relevant Council’s policy framework are taken by the Executive at CDC and Cabinet at OCC having considered the recommendations of officers.

Decisions on policy matters by Council Entities are taken by the board.

The Councils have an adopted scheme of delegation. This scheme sets out what is delegated to which body or officer, either conditionally or unconditionally. The Councils can review their scheme of delegation at any time to ensure decisions are being taken at the appropriate level. The process of delegation ensures that members are not overloaded with relatively less important matters and can concentrate on important policy issues and the effectiveness of service provision and continuous improvement in service. Members who are not portfolio holders have an important role in representing the views of their constituents and ensuring through scrutiny that the Council’s policies and plans are effectively delivered. Some members (portfolio holders and otherwise) have roles on regulatory committees dealing with matters such as planning and licensing. To minimise the possibility of any conflict of
interest, or defect in process, the schemes of delegations of the authorities should be harmonised so far as possible. Where differences need to remain there should be a clear business case for this.

Council Entities have adopted articles or a constitution and these documents set out what is delegated to which body or employee, either conditionally or unconditionally. They can be reviewed at any time to ensure decisions are being taken at the appropriate level.

It is recognised that there may be rare occasions where it is not possible to reconcile the interests of two or more organisations with their respective legal responsibilities. Such conflicts shall be managed by ensuring that relevant officers and members in each organisation are ring fenced from each other through the creation of ethical walls in accordance with the appended procedure to ensure that due regard is taken of each organisation and the need for certain matters to remain confidential to one or other organisation.

7. Statutory requirements

The Councils derive their powers from statute. Some of these are mandatory (i.e. the Councils must do them) and some are discretionary (i.e. the Councils may carry them out if they wish). In all cases members and officers of both authorities may only operate within the law.

Councils must have a Head of Paid Service, a Monitoring Officer and a Section 151 Officer. These officers are part of the senior management team and have an obligation to act in the best interests of their appointing authority/authorities.

If any of these statutory posts in a shared role consider that there is a conflict of interest within their area of responsibility which is affecting the ability of either Council to function effectively the most appropriate statutory officer may take a report to the appropriate full Councils setting out the conflict of interest and proposals for resolution.

8. Summary

Members are responsible for setting Council policy.

Officers are responsible for advising members on the setting of Council policy and for ensuring such policy is implemented.

The scheme of delegation determines which body or person deals with particular matters, and at which level decisions are taken.

The day to day management and operation of services is the responsibility of officers.
Where officers are dividing their time between two or more organisations members need to have regard to less time being available for their authority alone and the need to manage contact with officers to ensure the optimum use of both member and officer time.

If conflicts arise in relation to the respective regulatory duties of any of the organisations steps will be taken to ensure the ring fencing of officers and the confidentiality of information as necessary.

Otherwise, where there is actual or potential conflict there are three routes depending on the nature of the conflict,

1. agree to pay for appropriate external support to advise one or more authorities.
2. refer the issue through the dispute mechanism in the section 113 agreement, shareholder agreement or memorandum of understanding.
3. the most appropriate statutory officer may refer the matter to either or both full Councils for resolution.
Annex 1

Ethical Walls Procedure

1. This procedure is designed to be read alongside the protocol on the
Respective Roles of Members and Officers and Dealing with Conflicts of Interest.

2. It is recognised that there may be rare occasions most commonly in a
regulatory context or where a council owned/ influenced
company/organisation context (Council Entity) has been established
where it is not possible to reconcile the interests of the two Councils or
those between the council(s) and a Council Entity with their respective
legal responsibilities.

3. Such conflicts shall be managed by ensuring that relevant officers
working for each side are ring fenced from each other to ensure that due
regard is taken of the respective and conflicting duties and interests and
the need for certain matters to remain confidential to the individual
Council or Council Entity. This procedure sets out how this will operate
in practice.

Background

4. An Ethical wall, cone of silence, screen or firewall is a business term
describing an information barrier within an organisation that is erected in
order to prevent exchanges or communication that could lead to conflicts
of interest and/or the disclosure of information which is confidential to
one Council or the other or to a Council Entity. For example, an ethical
wall may be erected to separate and isolate people who make
investments from those who are privy to confidential information that
could influence the investment decisions, in newspapers between
journalists and advertising executives to protect editorial independence
and in law firms where different solicitors are acting for different clients
on the same issue.

5. For the vast majority of members and officers there will be no conflict of
interest in working for, being appointed to or advising more than one
Council or Council Entity, in fact most officers and members will not
experience this during their time in local government. However, a small
number of officers and members mainly those holding Executive, senior
management, statutory, legal, financial, regulatory and planning posts
may face situations where they become aware of conflict or potential
conflict between the councils or between one or both of the Councils and
a Council Entity. There is a need for officers and members in these posts
to maintain vigilance in identifying these situations where conflict could
arise. Whilst there is no definitive list of these situations, these might
include where one authority is consulting the other with regard to
planning policy, planning applications, boundary changes, electoral areas or other situations where there is either an implied or express duty to consult and/or co-operate.

6. Similar situations apply with regard to legal matters where the Councils are on either side of a dispute and the consideration of homelessness applications to one Council where there may be a local connection identified with one of the others. Similar situations apply to the Council(s) and Council Entities where an officer or member may be a Director or trustee or where an officer or member who is a Director may be dealing with other officers or members in their capacity as Directors or trustees of another Council Entity.

7. In all cases officers and members should always err on the side of caution and seek advice as it is much better to deal with and plan for potential conflicts, as when actual conflicts are identified it may be that too many officers and members are already acting for one side or the other and/or the erection of the Ethical Wall may be too late. The creation of an Ethical Wall does require a level of maturity and respect from those on either side of it. For instance, it is not uncommon for a manager to be on one side and a direct report on the other.

8. If there is a conflict or significant risk of a conflict, between the councils, or between the Council(s) and a Council Entity the officer or member must not act for both, except where the councils or the council(s) and the Council Entity are expressly pursuing the same common objective. In all cases of conflict or potential conflict a decision should be sought immediately from the Monitoring Officers of the respective Councils. The Monitoring Officers in deciding whether there is a conflict or whether the officer or member can act for multiple organisations, will ensure that the overriding consideration is the best interests of the individual organisation, and in particular, whether the benefits of the officer or member acting for all them outweighs the risk.

9. If the Monitoring Officers jointly feel that there is a risk of conflict or that the interest of the organisations are not best served by an officer or member acting for both they will invoke this procedure.

Procedure

10. When a conflict or potential conflict is identified an officer or member should alert the Monitoring Officers or one of their deputies.

11. The Monitoring Officers will provide advice to the officer on whether there is a conflict and in all cases alert the Senior Management team members. The Monitoring Officers will maintain an audit trail of his actions and any advice given, including a list of active Ethical Walls.
12. In the case that a conflict or potential conflict is identified the Monitoring Officer (in consultation with the relevant members/Senior Management team) will draw up a list of the officers who will be representing the interests of each party.

13. The Monitoring Officers will alert those on the list, Senior Management team, relevant lead members and any external parties to the discussion, that an Ethical Wall has been put in place and who they should deal with.

14. Once the Ethical Wall has been erected, officers on either side of the wall should treat and behave towards the other Council or Council Entity and the officers representing it with full regard to the issue in question as if they were an external organisation. That is information supplied by the other party should be thoroughly and critically examined and not taken on trust or face value, and information which is confidential to the interests of the organisation they represent must not be disclosed to the other party.

15. Whilst this relationship should be respectful and business like, it should be based on auditable correspondence as opposed to verbal communications as such documents could later be relied upon in legal action.

16. It should be agreed where files and electronic correspondence should be held and neither party should access information held by the other. Appropriate access restrictions will be established by ICT Services for information held electronically.

17. Officers should only advise members and officers on their side of the wall. Reports to committees must be in the name of and signed off by officers on the correct side of the wall and officers should not be present at meetings at any time when they are dealing with the issue on the other side of the wall.

18. The Ethical Wall should only be used for the issue in question and does not extend to any other areas of work.

19. When the issue in question has been successfully concluded the Monitoring Officer(s) should be notified and they will close the issue on the list of active Ethical Walls if they deem it appropriate.

20. In the case of an Ethical Wall between the Councils, the list will contain a minimum of two named officers on either side, one of which will be the Monitoring Officer of the respective Council, a Deputy Monitoring Officer or a legal officer. The Head of Paid Service (or in her absence or case of conflict her deputy) will not normally be assigned to either side of the wall and will not become involved in the issue. This enables the Head of Paid Service to arbitrate on any issue including human resources.
implications which may arise in the operation of this procedure. For employees in shared teams the identity of their employing Council will not necessarily dictate the side of the Wall to which they are allocated.

**Statutory Officers and Section 113 Agreement Dispute Resolution Procedure**

21. All Councils must have a Head of Paid Service, a Monitoring Officer and a Section 151 Officer. These officers are part of the management teams and have a legal obligation to act in the best interests of the authorities which appointed them.

22. It is imperative that the statutory officer system is robust and resilient therefore statutory officers should ensure that they appoint deputy statutory officers who may act for the other council(s) in case they are conflicted. To account for this and also to ensure there is sufficient statutory officer resilience; the recommendation is that each statutory officer appoints at least one, but preferably two deputies.

23. If any of these statutory posts consider that there is a conflict of interest within their area of responsibility, which has not been resolved through invoking this procedure and which is affecting the ability of any of the individual Councils to function effectively the most appropriate statutory officer(s) may take a report to the full Councils setting out the conflict of interest and proposals for resolution and invoke the Section 113 Agreement dispute resolution procedure between the Councils or the relevant shareholder agreement/Memorandum of Understanding Dispute resolution procedure for Council Entities if necessary.
Chief Executive Protocol
(Cherwell – Oxfordshire)

1. The Employee will divide their time between the councils so that the business needs and objectives of the councils can be met and that there is a fair allocation of time (having regard to the cost sharing arrangements for the Employee).

2. The Employee shall work jointly for and on behalf of the councils pursuant to section 113 of the Local Government Act 1972 and shall be entitled to take binding decisions on behalf of the councils in accordance with their respective constitutions.

3. The Employment Agreement shall remain in force during the term of this Agreement and the Employee shall remain an employee of Cherwell. Nothing in this Agreement will be construed or have effect as construing any relationship of employer and employee between Oxfordshire and the Employee.

4. Oxfordshire shall not require the Employee to do anything which shall or may, breach the Employment Agreement and shall have no authority to vary the terms of the Employment Agreement or make any representations to the Employee in relation to the terms of such Employment Agreement.

5. Oxfordshire shall provide Cherwell with such information and assistance as Cherwell may reasonably require to carry out its obligations towards the Employee.

6. The Employee will usually be based at Bodicote House, Bodicote, Banbury OX15 4AA in Cherwell and County Hall, New Road, Oxford, OX1 1ND, however, the Employee will be expected to travel to/work from other offices within Oxfordshire as required and occasionally attend events and meetings elsewhere, outside of the County.

7. The following obligations will remain with Cherwell:
   - payment of the Employee's salary and any allowances, employer's pension contributions, providing any benefits due to the Employee or their dependants, any payments to third parties in relation to the Employee and making any deductions which it is required to make from the Employee's salary and any other payments which may be due to the Employee;
   - management Issues; and
   - disciplinary action including dismissal.
   - Training and development, appraisal, discipline and performance management arrangements will be the responsibility of Cherwell and will be in line with Cherwell's HR policies in force from time to time.
8. The Employee shall have an annual performance appraisal as set out below:

<table>
<thead>
<tr>
<th>Chief Executive Appraisal</th>
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<tbody>
<tr>
<td>The appraisal should continue to be conducted in March and with a six month review in October. All dates will be arranged by an independent facilitator:</td>
</tr>
<tr>
<td>1) Chief Executive prepares her draft submission on how she has achieved her targets and met her role profile in the competency framework and suggests targets for next year based on agreed corporate priorities agreed at February council meetings.</td>
</tr>
<tr>
<td>2) Meeting between Chief Executive and independent facilitator to prepare for appraisal, discuss draft and critical friend approach. Draft revised to finalised version following meeting.</td>
</tr>
<tr>
<td>3) Meeting with opposition group leaders (or nominated deputy in case of absence) and independent facilitator to discuss draft and any issues and themes to be discussed at the appraisal.</td>
</tr>
<tr>
<td>4) Meeting between Leaders of the Councils (or nominated deputy in case of absence) and independent facilitator to discuss draft and any issues, issues raised by opposition group leaders and themes to be discussed at the appraisal.</td>
</tr>
<tr>
<td>5) Informal preparation discussion between Chief Executive and independent facilitator.</td>
</tr>
<tr>
<td>6) Appraisal meeting with Leaders of the Councils (or nominated deputy in case of absence), Chief Executive and independent facilitator.</td>
</tr>
<tr>
<td>7) Independent facilitator drafts outcomes, agreed with Leaders of the Councils and then passed to Chief Executive for her comment.</td>
</tr>
<tr>
<td>8) Final document agreed and filed in the employees personnel file at Cherwell District Council, a summary of outcomes and objectives will be circulated to all group leaders.</td>
</tr>
<tr>
<td>9) Summary of outcomes and objectives reported into next available Joint Personnel Committee as an exempt report.</td>
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9. The councils may act jointly in relation to any investigation, grievance, disciplinary, capability or performance issue, raising a concern at work, equality, dignity, bullying, harassment or other claim or action under any of Cherwell’s policies or procedures, but any resulting process or action will be undertaken by Cherwell (and the other council acknowledges that it is not entitled to take any disciplinary action against the Employee).

10. Cherwell shall continue to deal with any Management Issues concerning the Employee during the period of this Agreement, where relevant following consultation with Oxfordshire.

11. Each council shall inform the other as soon as reasonably practicable of any other significant matter which arises relating to the Employee or her employment.
12. Where the Employee identifies any actual or potential conflict of interest between the councils in relation to the provision of the Employee's services under this Agreement then the Administrator shall be informed and shall seek to ensure that such conflict is addressed to the satisfaction of both councils.

13. The Employee shall continue to be eligible for sick pay, holiday pay and any absence entitlements in accordance with the Employment Agreement, and shall remain subject to Cherwell's approval and notification procedures.

14. Cherwell shall use its reasonable endeavours to procure that the Employee shall not, except in the proper course of their duties, as required by law or as authorised by Oxfordshire during the period of this Agreement or after its termination (howsoever arising) use or communicate to any person, company or other organisation whatsoever (and shall use their reasonable endeavours to prevent the use or communication of) any Confidential Information relating to Oxfordshire that may be created, developed, received or obtained during the this Agreement. This restriction does not apply to any information that is or comes into the public domain other than through the Employee's unauthorised disclosure.
Members’ Allowances

All councillors are legally entitled to a “basic allowance” in respect of their duties as a member of the Council. They may also receive certain other allowances if the authority so decides. The County Council, in the light of a report and recommendations of an independent Remuneration Panel set up for the purpose, has agreed allowances in respect of:

- special responsibilities borne by some members;
- travelling and subsistence expenses necessarily incurred to enable them to perform certain duties as a councillor;
- costs incurred by councillors in arranging for childcare and the care of other dependent relatives where necessitated by their duties as a councillor.

The allowances and pension entitlements - including the amounts of the allowances agreed by the Council, conditions for payment and the categories of duty eligible for travelling, subsistence and carers’ allowances - are set out in a formal “Allowances Scheme” under section 18 of the Local Government and Housing Act 1989 (as amended) and the Local Authorities (Members’ Allowances) (England) Regulations 2003. The provisions of the current Scheme are set out on the following pages.
Members' Allowances Scheme

Set out below are the provisions of the County Council’s current Members’ Allowances Scheme that applied from 1 April 2015.

Basic Allowance

1. Subject to the provisions of this Scheme, a basic allowance of £10,000.00 shall be paid to each councillor for each year.

Special Responsibility Allowances

2. Subject to the provisions of this Scheme, a special responsibility allowance shall be paid for each year to those councillors who have the special responsibilities in relation to the authority that are specified in Schedule 1.

3. Subject to the provisions of this Scheme, the amount of each such allowance shall be the amount specified against that special responsibility in Schedule 1.

4. Any special responsibility allowance payable under paragraphs 2 and 3 shall be in addition to the basic allowance payable under paragraph 1.

Part-Year Entitlements

5. The provisions of the following paragraphs shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year:

(a) this Scheme is amended, or

(b) a person becomes, or ceases to be, a councillor, or

(c) a councillor accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

6. Where as a result of such an event an entitlement to an allowance commences or terminates, the amount payable shall be assessed on the basis of the number of days in the year on which the entitlement applies, as a proportion of the number of days in that year.

7. Where the effect of such an event is to amend an entitlement in respect of the amount of the allowance, the amended amount shall be payable from the beginning of the day on which the amendment comes into effect, and subject thereto the amounts payable shall be assessed on the basis of the number of days in the year on which the respective entitlements apply, as a proportion of the number of days in that year.
Indexation

8. The basic and special responsibility allowances and the co-optee’s allowance to the Chairman of the Audit Working Group (sections 15 and 16), shall be amended annually by reference to the annual pay settlement for local government staff. The amendment shall take effect on the date on which the settlement for staff takes effect.

Travelling and Subsistence Allowances

9. Subject to paragraph 13, an allowance shall be paid to:

(a) any councillor; and

(b) any co-opted member;

in respect of travelling and subsistence undertaken in respect of any duty specified in Schedule 2.

10. Subject to paragraph 13 below the amounts payable shall be the amounts which are for the time being payable to officers of the Council in respect of travelling and subsistence undertaken in the course of their duties.

11. The payment of travelling and subsistence allowances is subject to the following conditions and limitations:

(a) Travelling allowance by rail is the standard class fare.

(b) Expenses are not payable to the extent that they are claimable from any other body.

(c) In calculating the length of time to be taken into account for the purposes of subsistence allowance, the time reasonably spent by the councillor in travelling to and from the place at which the relevant duty is performed shall be included.

(d) No allowances are payable in respect of attendance at meetings of governing or managing bodies of schools.

(e) When meals are provided by the County Council, subsistence allowance is not payable.

Dependants’ Carers’ Allowances

12. An allowance shall be paid to any councillor in respect of such expenses of arranging for the care of his/her child(ren) or dependant(s) as are necessarily incurred in carrying out any duty specified in Schedule 2.
13. The amount payable shall be the actual cost incurred in providing such care up to the following maximum hourly rates:
   (a) Child care - £6 per hour;
   (b) Care for an adult dependent relative - £17 per hour.

14. In calculating the length of time to be taken into account for the purposes of the preceding paragraph, the time reasonably spent by the councillor in travelling to and from the place at which the relevant duty is performed shall be included.

Co-optees’ Allowances

15. A co-optees’ allowance shall be payable to an independent co-opted member of the Audit & Governance Committee when the co-opted member serves as chairman of the body known as the Audit Working Group which exists to advise that Committee.

16. The allowance payable under the preceding paragraph shall be £5,370.85 per annum.

Claims and Payments

17. Subject to the following paragraph, payments shall be made in respect of basic and special responsibility allowances in instalments of one-twelfth of the amounts respectively specified in this Scheme, paid on the last working day of each month.

18. Where a payment of one-twelfth of the amount specified in this Scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraphs 5-7, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

19. Where a councillor is also a member of another authority that councillor may not receive allowances from more than one authority in respect of the same duties.

20. A claim under the travelling and subsistence and dependants’ carers’ allowance provisions of this Scheme:
   (a) shall be made in writing within two months from the date of performance of the duty in respect of which the claim is made;
   (b) shall be accompanied by:
       (i) receipts and/or any other relevant evidence of the costs incurred;
(ii) a statement by the councillor who is claiming the allowance that he/she is not receiving remuneration in respect of the matter to which the claim relates otherwise than under this Scheme; and

21. shall be subject to such validation and accounting procedures as the Council’s Chief Finance Officer may from time to time prescribe.

22. Payments shall be made in respect of such claims on the last working day of each month in respect of any claim received by the monthly deadline.

**Renunciation and Suspension**

23. A councillor may at any time and for any period, by notice in writing given to the Head of Paid Service, elect to forego any part of his/her entitlement to an allowance under this Scheme.

24. In the event that a councillor or co-opted member is suspended from office all allowances that would otherwise have been payable to him/her under this Scheme in respect of the period for which the suspension is effective shall be withheld.

**Interpretation and General**

25. In this Scheme:

(a) any reference to a paragraph or Schedule means a paragraph of or Schedule to this Scheme;

(b) "councillor" means a member of the Oxfordshire County Council who is a councillor;

(c) “co-opted member” means any co-opted member of a committee or sub-committee of the Council who is not a councillor;

(d) "year" means the 12 months ending on 31 March in any year.
## SCHEDULE 1

### Special Responsibility Allowances (per annum)

#### The Cabinet

- Leader of the Council: £29,000
- Deputy Leader of the Council: £20,000
- Other Members of the Cabinet: £16,000

#### Committees

Chairman

- Each Scrutiny Committee: £6,000
- Audit & Governance Committee: £6,000
- Planning & Regulation Committee: £6,000
- Pension Fund Committee: £6,000

#### Other Office Holders

- Chairman of the Council: £8,500
- Vice-Chairman of the Council: £2,125
- Leader of the Opposition: £8,000
- Shadow Cabinet Members: £2,500
- Locality Meeting Chairman: £500
- Police and Crime Panel member*: £1,515
- Police and Crime Panel chairman*: £3,500
- Police and Crime Panel vice-chairman*: £3,030

* Allowance only payable if the postholder is not a Cabinet Member
SCHEDULE 2

Travelling and Subsistence Allowance
Dependants' Carers' Allowance
Approved Duties

Duties specified by Regulation 8 of the Local Authorities (Members’ Allowances) (England) Regulations 2003

(a) Attendance at a meeting of the Council or of any committee or sub-committee of the authority (i.e. where attending as a member of that committee or sub-committee).

(b) Attendance at a meeting of any other body to which the Council make appointments or nominations, or of any committee or sub-committee of such a body.

(c) Attendance at any other meeting the holding of which is authorised by the Council or a committee or sub-committee of the Council, or by a joint committee of the Council and one or more other authorities or a sub-committee of such a joint committee, provided that:

(i) so long as the Council is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or

(ii) if the Council is not so divided, it is a meeting to which at least two members of the authority have been invited.

(d) Attendance at a meeting of any association of authorities of which the Council is a member;

(e) Attendance at a meeting of the Cabinet or any of its committees (i.e. when attending as a member of Cabinet or the committee).

(f) The performance of any duty in pursuance of any standing order requiring a member or members to be present while tender documents are opened.

(g) The performance of any duty in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.

(h) The performance of any duty in connection with arrangements made by the Council for the attendance of pupils at school approved for the purposes of section 342 (special schools) of the Education Act 1996.

(i) The carrying out of any other duty approved by the Council, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Council, or of any of its committees or sub-committees.
Meetings authorised generally as provided by (c) above

(j) One pre-meeting with officers if such is held in relation to a meeting of a committee, sub-committee or working party by the Chairman, the Deputy Chairman and Opposition Group Spokesperson for the committee, sub-committee or working party (or their nominated substitutes).

(k) One pre-meeting with officers if such is held in relation to a meeting of the Council by the Chairman and Vice-Chairman of the Council, each Group Leader (or his/her nominated substitute) and (in the case of the three largest political groups) his/her nominated Deputy.

Duties approved generally as provided by (i) above

(l) The performance of any duty for the purpose of, or in connection with, the discharge of the functions of the Cabinet.

(m) Attendance at any meeting of the Cabinet by a member who is not a member of the Cabinet.

(n) The performance of any duty reasonably required in the capacity of a member of the Shadow Cabinet, including attendance at briefings with officers when acting in that capacity;

(o) The attendance by leaders of a political group of the Council at formal meetings of the Council, Cabinet and any Committees for the purpose of keeping themselves informed of business;

(p) The performance of duties such as interviewing candidates for appointment.

(q) Attendance at public meetings.

(r) The performance of duties (including visits) in connection with the work of a committee, sub-committee or working party by its Chairman, Deputy Chairman and other Opposition Group Spokesperson (or their nominated substitutes), or any two of them, with an appropriate officer.

(s) Visits by individual councillors to County Council establishments where such visits are undertaken as part of an organised system of such visits on the instructions rather than merely by the invitation of the Council, a committee or sub-committee or the Cabinet.

(t) The performance by the Chairman and/or the Vice-Chairman of the Council of such duties in relation to the Council as would entitle the Chairman and Deputy Chairman of a Council committee or sub-committee to travelling and subsistence allowances if performed in relation to the work of that committee or sub-committee.

(u) Attendance by a member in the capacity of county councillor at parish and town council meetings within the relevant member’s division.
(v) Activities undertaken by the Member Champions in accordance with the duties described in the role profiles.

(w) Meetings with officers undertaken by members in pursuance of bona fide constituency business where it is directly related to the discharge of Council functions and cannot expediently be dealt with by other means.

(x) Attendance at duly authorised conferences, seminars and training events.

(y) Attendance at other meetings/interviews which members are specifically invited or requested to attend by officers in connection with Council business.