

**Swindon Borough Council**

# **Constitution**

**Approved on: Thursday 13 July 2023**

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## Part 1

### Summary and Explanation

#### The Council's Constitution

Swindon Borough Council has agreed a constitution that sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols in Annexes at the end of the document.

#### What's in the Constitution?

Article 1 describes the Constitution and is a statement of purpose. Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny (Article 6).
- The Cabinet (The Council's Executive) (Article 7).
- Regulatory and Other Committees (Article 8).
- The Standards Committee (Article 9).
- Community Involvement (Article 10).
- Joint Arrangements (Article 11).
- The Council's Officers (Article 12).
- Decision Making (Article 13).
- Finance, Contracts and Legal Matters (Article 14).
- Review and Revision of the Constitution (Article 15).
- Suspension, Interpretation and Publication of the Constitution (Article 16).

#### How the Council Operates

The Council is composed of 57 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties ("The Members' Code of Conduct"). The Standards

Committee recommends training on any aspect of conduct and behaviour for Councillors and assists them on their obligations in respect of the code of conduct.

All councillors meet together as the Council (Full Council). Meetings of the Council are normally open to the public. Here, councillors decide the Council's overall policies and set the budget each year. The Council will elect the Leader of the Council.

## **Governance**

The Council has a key role in governing and leading the communities within the Borough of Swindon. Effective local government relies on public confidence in elected councillors, and officers. An effective system of corporate governance underpins the credibility and confidence in public services. The Swindon Local Code of Governance in Part 5 of the Constitution sets out the way in which the Council demonstrates that it has such an effective system.

## **How Decisions are made**

The Leader and Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet (or Executive) is made up of the Leader of the Council and a Cabinet of up to 9 Councillors to whom the Leader allocates portfolios (Cabinet Members). When major decisions are to be discussed or made, these will be published in the Cabinet's Work Programme / Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

To speed-up decision making and to allow the Cabinet to concentrate on major matters, the Leader and Cabinet Members have the delegated power to make day-to-day decisions in relation to the areas within their portfolio. In addition, specified Council officers have powers / functions delegated to them either under the scheme of delegation in Part 8 of the Constitution, or under other parts of the Constitution, or by the Leader or by resolution of a committee or Council body. Councillors and officers operate in accordance with various agreed procedures and protocols as set out in Part 5 of this Constitution.

There are other Regulatory Committees that make decisions on planning applications, licensing matters and similar issues. The Council also has a Standards Committee which promotes and maintains high standards of conduct by Councillors and others, and an Audit Committee which provides independent audit assurance to the Council in respect of its governance and financial arrangements.

Cabinet Members may also, from time to time, appoint one or more Advisory Groups to assist them in the discharge of any or all of their Portfolio responsibilities. The Cabinet Member determines the membership of the Advisory Group and whether it shall be

chaired by the Cabinet Member or his/her nominee. Advisory Groups are informal non decision-making bodies and do not exercise executive power. The Cabinet Member decides whether the public or other members of the Council shall be allowed to attend or be on the circulation list for papers prepared for an Advisory Group. The Monitoring Officer maintains a register of such Advisory Groups.

## **Overview and Scrutiny**

An Overview and Scrutiny Committee will support the work of the Cabinet and the Council as a whole. It will allow citizens to have a greater say in Council matters by holding public hearings into matters of local concern. Also, a councillor can ask the Overview and Scrutiny Committee to discuss any local government matter under a 'councillor call for action'. These lead to reports and recommendations that advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. It 'calls-in' all decisions that have been made by the Cabinet and may also call-in a decision made by an individual Cabinet Member. This enables it to consider whether the decision is appropriate. It may recommend either that the Cabinet or Cabinet Member reconsider the decision or that the matter be investigated further. Currently, a Tenants Scrutiny Panel performs a similar function in relation to decisions affecting the Council's housing revenue account.

The Overview and Scrutiny Committee may be consulted by the Cabinet or the Council on forthcoming decisions as 'pre-decision scrutiny'.

The Council also participates with Wiltshire Council Members in a joint Police and Crime Panel, which undertakes a similar overview and scrutiny role for the Police and Crime Commissioner.

## **Policy Development**

Three Policy Development Committees will provide a platform dedicated to policy development, review and revision to support the delivery of the Council's priorities and pledges.

The Cabinet, the Council, Cabinet Members, or members of a Policy and Development Committee will refer policy initiatives to the relevant Policy Development Committee, which will then undertake detailed developmental work in liaison with the appropriate Cabinet Member. New and revised policies will be developed using a wide array of approaches, including public open forums, consultations, task and finish groups, peer reviews, and emerging good practice. The draft policies will be informed by input from stakeholders to ensure they are fit for purpose, workable, and reflect the Council's priorities and pledges.

## **Health and Wellbeing Board**

The Council has established a Health and Wellbeing Board. It is a “standing committee” of the Council as required by the Health and Social Care Act 2012. The Board is made up of Councillors, Council officers, and representatives of the Swindon Clinical Commissioning Group, the NHS Commissioning Board, Swindon Healthwatch and from the community, voluntary and social enterprise sector. Its main statutory functions are to prepare Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies with a view to improving the health and wellbeing of Swindon’s population and to reduce inequalities in health experienced by some communities. Its meetings are open to the public.

## **Community Involvement**

The Borough Council’s relationship with the Parish Councils seeks to ensure inclusivity and enhanced ways of working. It will meet regularly with Parish Councils in the Borough both at Member level and at Officer level, these meetings to be conducted in accordance with the working principles (in development) to govern its interactions with the Parish Councils.

The Borough Council will continue to work with the parishes to promote community involvement, enable community empowerment and devolve power and responsibility to neighbourhood level. The Borough will also continue to work with Residents Associations and other Community Groups to the same end.

The Borough Council will also continue to seek to ensure that community governance within the Borough is effective and convenient, and reflective of the identities and interests of communities within the Borough.

## **Petitions**

Petitions from members of the public will be dealt with under the Council’s Petitions Scheme, which is set out in Part 4 of the Constitution.

## **The Council’s Staff**

The Council has people working for it (called ‘officers’) to give advice, implement decisions, and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

## **Citizens’ Rights**

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- petition to request the Council to take action;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committee;
- record and report on Council meetings that are open to the public using modern media in accordance with the Council's agreed protocol and guidance;
- find out, from the Cabinet's Work Programme , what major decisions are to be discussed by the Cabinet or decided by the Cabinet, Cabinet Members or officers, and when. The Cabinet Work Programme is available by way of the Council and Democracy pages of the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- attend meetings of the Cabinet where key decisions are being discussed or decided, where such decisions are taken in a part of the meeting that is open to the public;
- be informed at least 28 clear days in advance of either any key decision to be taken by the Cabinet, or of any decision / report where it is intended that the public and press will be excluded from a meeting of the Cabinet, or a report to Cabinet will be considered as being "Not for Publication".
- where a report is considered as being "Not For Publication", in such circumstances individuals will be able to express their views on why they believe such decisions should be taken in a meeting open to the public and the Cabinet will be required to respond to these representations and explain why it either supports or rejects the

request. This is by way of “notices” on the Council and Democracy pages of the Council’s Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));

- see reports and background papers, and any record of decisions made by the Council and Cabinet or Cabinet Members. Agenda, reports and minutes are available by way of the Council and Democracy pages of the Council’s Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)).
- complain to the Council - The procedure is set out in the Council’s Customer Feedback Policy that is available on the Council’s Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council’s own complaints process;
- complain to the Council’s Standards Committee if they have evidence that they think shows that a Councillor has not followed the Council’s Code of Conduct; and
- inspect the Council’s Accounts and make their views known to the Council’s External Auditors.

The Council welcomes participation by its citizens in its work.

Citizens have the right to inspect Council agendas and reports and attend meetings providing that the subject or the relevant papers /meetings are not confidential or contain confidential (known as “exempt”) information.

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**Part 2**

**Articles of the  
Constitution**

# Article 1 – The Constitution

## 1.01 Powers of the Council

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

## 1.02 The Constitution

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

## 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

## 1.04 Interpretation and Review of the Constitution

- a) Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that it thinks is closest to the purposes stated above.
- b) The Council will monitor and evaluate the operation of the Constitution as set out in Article 15 (Review and Revision of the Constitution).

## Article 2 – Members of the Council

### 2.01 Composition and Eligibility

- a) Composition. The Council will comprise 57 Members, otherwise called Councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
- b) Eligibility. Only those over 18 years of age who are either registered voters of the Borough, or who live, work or occupy land there will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all councillors will normally be held on the first Thursday in May in each year, except that in every fourth year (starting in 2017) there will be no regular election. Usually the terms of office of councillors will be four years, starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.03 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) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv) balance different interests identified within the ward and represent the ward as a whole;
  - (v) be involved in decision-making;
  - (vi) be available to represent the Council on other bodies; and
  - (vii) maintain the highest standards of conduct and ethics.
- (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 that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it;

(iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules set out within Part 4 of the Constitution.

#### 2.04 Conduct

Councillors will at all times observe the Council’s Members’ Code of Conduct and act in accordance with this Constitution.

#### 2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Councillors’ Allowances Scheme (which is published in Part 6 of the Constitution).

#### 2.06 Councillor Role Definitions

To assist Members of the Council, and to help others outside of the Council to understand what Councillors’ roles involve, general Councillor Role Definitions have been agreed by Members. These are published in Part 5 of the Constitution.

## Article 3 – Citizens and the Council

### 3.01 Citizens' Rights

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

#### (a) Voting and Petitions

- Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Executive.
- Citizens also have the right to vote in a referendum on matters specified in the Localism Act 2011, for example in relation to the making of a neighbourhood development order, and a council tax increase that is determined to be excessive;
- Citizens can petition the Council to take specified action(s). Such petitions will be dealt with under the Council's Petitions Scheme, which is set out in Part 4 of the Constitution.

#### (b) Information

Citizens have the right to:

- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- attend meetings of the Cabinet where key decisions are being discussed or decided except where, for example, personal or confidential matters are being discussed;
- record and report on meetings using modern media in accordance with the Council's agreed Protocol and Guidance;
- find out from the Work Programme / Forward Plan what key decisions will be taken by the Cabinet and when;
- find out at least 28 days in advance of either any key decision to be taken by the Cabinet, or any decision / report where it is intended that the public and press will be excluded from a meeting of the Cabinet, or a report to Cabinet will be considered as being "Not for Publication". (Where a report is considered as being "Not For Publication", in such circumstances individuals will be able to express their views on why they believe such decisions should be taken in a meeting open to the public and the Cabinet will be required to respond to these representations and explain why it either supports or rejects the request.)
- see reports and background papers, and any record of decisions made by the Council and the Cabinet and Cabinet Members;
- inspect the Council's Accounts and make their views known to the Council's External Auditors.

(c) Complaints

Citizens have the right to complain to:

- The Council - The Council's customer feedback policy is available on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk));
- The Ombudsman (after using the Council's own complaints process);
- The Council's Standards Committee about a breach of the Council's Members Code of Conduct.

3.02 Citizens' Responsibilities

Citizens must not be violent, abusive or threaten Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

## Article 4 – The Full Council

### 4.01 Meanings

(a) Policy Framework. The policy framework means the following plans and strategies:

- Annual Library Plan;
- Children and Young People’s Plan;
- Sustainable Community Strategy;
- Community Safety / Crime and Disorder Reduction Strategy;
- Licensing Authority Policy Statement;
- Local Transport Plan;
- Development plan documents
- Plans and alterations that together comprise the Development Framework Plan;
- Youth Justice Plan;
- Council’s Corporate Plan;
- Swindon Economic Strategy
- Other plans and strategies that the Council and Cabinet consider should be adopted by the full Council as a matter of local choice; for example:
- Food Law Enforcement Service Plan;
- The Plans and Strategies that comprise the Housing Investment Programme;
- Adult Learning Plan;
- Local Agenda 21 Strategy;

The names of these Plans are sometimes amended but still reflect the named subject areas.

(b) Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council’s Borrowing Requirements, the control of its capital expenditure and the setting of virement limits.

(c) Housing Land Transfer. Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions of the Full Council

Only the Council or its Special Committee will exercise the following functions:

- (a) adopting and changing the Constitution (other than minor textual changes and/or changes to officer titles which shall be agreed by the Chief Executive in consultation with the Group Leaders, with the Chief Legal Officer then authorised to make the necessary changes to the Management Structure chart in the Constitution);
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) making decisions about any matter in the discharge of an “executive function” which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner that would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) electing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for Committees, and other bodies and deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (g) adopting a Councillors’ Allowances Scheme;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough;
- (i) approving the appointment of the Head of Paid Service, and the dismissal of the Head of Paid Service, Chief Finance Officer and the Monitoring Officer;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions (as described in the Local Government Act 2000 and associated Regulations) which the Council decides should be undertaken by itself rather than the Cabinet;
- (l) adoption of any proposals that are a “significant departure” from previously agreed Council policies;
- (m) consider and determine matters referred to it by Overview and Scrutiny Committee or the Cabinet in cases where those bodies cannot reach agreement;
- (n) consider petitions for debate at Council in accordance with the Petitions Scheme as set out in Part 4 of the Constitution; and
- (o) all other matters that, by law, must be reserved to Council.



#### 4.03 Council meetings

There are three types of Council meeting:

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

These will be conducted in accordance with the Council Procedure Rules (Standing Orders) set out in Part 4 of the Constitution.

#### 4.04 Responsibility for functions

The Council will maintain the tables in this Constitution that set out the responsibilities for the Council's functions that are not the responsibility of the Cabinet (Part 3 of the Constitution).

## Article 5 – Chairing the Council

### 5.01 Role and Function of the Mayor

The Mayor, and in his/her absence the Deputy Mayor, will have the following roles and functions: -

#### (a) Ceremonial Role

The Mayor shall be the first citizen of the Borough of Swindon and shall undertake such civic and ceremonial duties as shall from time to time occur, in consultation where necessary with the Leader of the Council.

The Mayor will promote Swindon as a whole and together with the Leader of the Council act as a focal point for the community.

#### (b) Chairing the Council Meeting

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities, to:

1. Uphold and promote the purpose of the Constitution and to interpret the Constitution (in particular Part 4 of the Constitution Procedural Rules - "Standing Orders") when necessary;
2. 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. 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 are able to hold the Cabinet to account;
4. Promote public involvement in the Council's activities;
5. Be the conscience of the Council.

## Article 6 – Overview and Scrutiny

### 6.01 Overview and Scrutiny arrangements

The Council will appoint an Overview and Scrutiny Committee, and three Policy Development Committees. The Committees are collectively responsible for the discharge of all functions conferred by Section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters broadly set out below.

### 6.02 Terms of Reference – Overview and Scrutiny Committee

Committee	Membership	Scope
Overview and Scrutiny Committee	<p>Total membership comprising 13 non-executive Members of the Council, in addition to–</p> <p>a) the following education representatives -</p> <ul style="list-style-type: none"> <li>• 1 Church of England diocese representative;</li> <li>• 1 Catholic diocese representative;</li> <li>• Representatives of other faiths or denominations (where appropriate)</li> <li>• Between 2-5 parent governor representatives</li> </ul> <p>(the above education representatives shall have a right to attend and vote on matters relating to the Councils education functions)</p> <p>b) such other non-voting co-opted members as may be agreed by the Committee</p>	<ul style="list-style-type: none"> <li>• To be responsible for the Overview and Scrutiny function, and all statutory scrutiny duties</li> <li>• Agrees work programming and prioritisation process according to resources</li> <li>• Deals with statutory or other scrutiny matters</li> <li>• Establishes sub-committee, working groups, task and finish as necessary to deal with specific issues</li> <li>• Deal with call-ins, Councillor call for action, Motions, Member agenda requests</li> </ul>

### 6.03 General role – Overview and Scrutiny Committee

Within its terms of reference, the Overview and Scrutiny Committee will:

- i. Be responsible for the overview and scrutiny function in connection with any of the Council's functions, and may establish and assign these duties or any part thereof to a sub-committee as deemed necessary. Either the Overview and Scrutiny Committee, or its Sub-Committee will:
  - a. Review and scrutinise decisions made by, and the performance of, the Executive and/or committees and Council officers;
  - b. Review and scrutinise the performance of the Council in relation to its policy objectives, pledges, performance targets and/or particular service areas;
  - c. Question members of the Executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - d. Make recommendations to the Executive and/or appropriate committee and/or the Council arising from the outcome of the scrutiny process;
  - e. Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
  - f. Question and gather evidence from any person, with their consent;
  - g. In accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Health and Social Care Act 2001 (as amended) and other relevant legislation, scrutinise health commissioners and health providers, (including the Health and Wellbeing Board) and invite reports from them about their activities and performance;
  - h. In accordance with Section 19 of the Police and Justice Act 2006, act as the Council's "Crime and Disorder Committee", in terms of reviewing and scrutinising decisions made, or other actions taken, in connection with the discharge by the responsible authorities of the Crime and Disorder function.
- ii. Make reports and/or recommendations to the full Council and/or the Executive and/or any other appropriate committee or forum in connection with the discharge of any of its functions;
- iii. Request the consideration by any other appropriate committee or forum a matter falling within the remit of that other committee or forum;

- iv. To receive a report by the Leader of the Council at its first meeting after each Annual Council Meeting (or at such a meeting as is agreed by the Chair of the Committee and the Leader of the Council) on the service issues for the year ahead, the Cabinet’s policy development priorities, and on the Council’s performance in the previous year;
- v. Exercise the right to call-in for reconsideration, decisions made by not yet implemented by the Executive as defined in the Council’s Constitutional Procedure Rules;
- vi. Seek to report annually to the Council on the workings of the Committee and its Sub-Committees and make recommendations for future work and amended working methods if appropriate.

6.04 Terms of Reference – Policy Development Committees

Committee	Membership	Scope
Policy Development (Build a better Swindon) Committee	13 non-executive Members of the Council	<ul style="list-style-type: none"> <li>• Planning and heritage assets</li> <li>• Town centre rejuvenation</li> <li>• Enhancing the economy and helping local businesses</li> <li>• Improving transport networks</li> <li>• Housing and regeneration</li> <li>• Promoting Council efficiency and Parish collaboration</li> <li>• Performance against pledges &amp; action plans</li> </ul>
Policy Development (Achieve net zero) Committee	13 non-executive Members of the Council	<ul style="list-style-type: none"> <li>• Mitigating and adapting to climate change</li> <li>• Planning</li> <li>• Transport</li> <li>• Waste and recycling</li> <li>• Green infrastructure and biodiversity</li> <li>• Built environment and retrofitting</li> <li>• Energy</li> <li>• Community engagement</li> <li>• Performance against pledges &amp; action plans</li> </ul>
Policy Development (Combat inequality) Committee	13 non-executive Members of the Council	<ul style="list-style-type: none"> <li>• Reducing disadvantage</li> <li>• Combating cost of living crisis</li> <li>• Education</li> <li>• Social care</li> <li>• Working with the third sector and community engagement</li> <li>• Performance against pledges &amp;</li> </ul>

		action plans
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6.05 General role – Policy Development Committees

Within their terms of reference, the Policy Development Committees may:

- i. Assist the Council and the Executive in the detailed development of its policy framework by in-depth analysis of policy issues;
- ii. Conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. Consider and implement mechanisms to encourage and enhance community and stakeholder participation in the development of policy options;
- iv. Question members of the Executive and/or Committees and chief officers about their views on issues and proposals affecting the area;
- v. Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

6.06 Tenant Scrutiny Panel

The Tenant Scrutiny Panel will scrutinise decisions relating to the housing revenue account.

## **Article 7 – The Cabinet (The Council’s Executive)**

### 7.01 Role

The Cabinet will carry out all of the local authority’s functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### 7.02 Form and Composition

The Cabinet will consist of the Leader of the Council together with at least 2, but not more than 9, councillors appointed to the Cabinet by the Leader of the Council.

The Leader of the Council will allocate portfolio responsibilities to the members of the Cabinet from time to time and may delegate decision-making powers to individual Cabinet Members.

Individual Cabinet Members may exercise such powers within their portfolio areas as may be delegated to them by the Leader.

### 7.03 Leader

The Leader will be a Councillor elected to that position by the Council. The Leader’s term of office ends on the day when the Council holds its first annual meeting after the Leader’s normal day of retirement as a councillor or until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by resolution of the Council following Notice of Motion having been given in accordance with the Council’s procedural rules (Standing Orders). In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting.

### 7.04 Other Cabinet members

The Leader must appoint one member of the Cabinet as Deputy Leader of the Council who will hold office until the end of the Leader’s term of office unless

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by the Leader.

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

If for any reason the Leader is unable to act or the office of Leader becomes vacant (and pending the election of a new Leader) the Deputy Leader shall discharge all roles and functions of the Leader.

If for any reason both the Leader and Deputy Leader are unable to act or both offices become vacant the Cabinet shall act in the Leader's place or arrange for another member of the Cabinet to act in his /her place.

The Leader appoints the other members of the Cabinet.

Other Cabinet members shall hold office until:

- (a) they resign from office;
- (b) they are no longer councillors;
- (c) they are removed from office on the expiry of their appointed term of office, or by the Leader at an earlier date if he/she so decides, who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

#### 7.05 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Council's Procedural Rules as set out in this Constitution and its associated documents.

#### 7.06 Responsibility for Functions

The Leader of the Council will maintain a list setting out which individual members of the Cabinet, or sub-committees or other bodies established by the Cabinet, officers or joint arrangements are responsible for the exercise of particular 'executive'/Cabinet functions (Set out in Part 3 of this Constitution in accordance with Section 9E(2) of the Local Government Act 2000).

#### 7.07 Cabinet Member Advisory Groups

The Leader and/or a Member of the Cabinet may from time to time appoint one or more Advisory Groups with whom they may consult in the discharge of any or all of their Portfolio responsibilities.

The membership of an Advisory Group may include members and officers. The Cabinet Member shall have sole discretion to determine the membership of an Advisory Group, including whether members are drawn from one or more political groups on the Council. The Cabinet Member or his/her nominee shall chair an Advisory Group. Such bodies shall be informal non decision-making bodies and shall not exercise executive power and shall not constitute a sub-committee of the Cabinet. The Cabinet Member shall determine whether the public or other members of the Council shall be allowed to attend a meeting of an Advisory Group, or be on the circulation list for papers prepared for an Advisory Group. The Cabinet



Member is accountable for his/her Advisory Group(s) and will determine reporting arrangements.

The Cabinet Member shall notify the Monitoring Officer if an Advisory Group is established and of its membership. The Monitoring Officer shall maintain a list of such Advisory Groups which shall be open to public inspection. Details will also be reported to the Annual Meeting of the Council and these details will be published on the Council's website.

## Article 8 – Regulatory and Other Committees

### 8.01 Regulatory and Other Committees

The Council will appoint the following committees to discharge the functions also described below:-

#### Appeals Committee

An Appeals Committee comprising a pool of Councillors representing the political groups on the Council (Politically Balanced) will be appointed to consider, through a series of Sub-Committees as described below, appeals and / or objections received under different statutory requirements and / or where the Council has allowed a right of appeal against officer or councillor decisions as mentioned below:-

#### Ad Hoc Appeals Sub-Committee

#### Education Transport Appeals Sub-Committee

#### (Corporate Directors, Directors and Heads of Service) Staff Appeals Sub-Committee

#### Appointments Committee

A politically-balanced Appointments Committee, comprising Councillors who are Cabinet Members or are the spokespersons of the other Political Groups on the Council, will be appointed to make appointments, through a Sub-Committee, to the Council's senior management (Head of Paid Service and Chief Officers) and statutory (Corporate Director of Finance and Assets (s151 Officer) Monitoring Officer, Director of Public Health) posts.

#### Audit Committee

To provide independent assurance on the adequacy of the Council's risk management framework, the internal control environment and the integrity of the financial reporting and annual governance process. The core functions are to:

- Be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it, and demonstrate how governance supports the achievement of the authority's objectives.
- In relation to the authority's internal audit functions:
  - Oversee its independence, objectivity, performance and professionalism
  - Support the effectiveness of the internal audit process
  - Promote the effective use of internal audit within the assurance framework
  - Consider the effectiveness of the control environment, including arrangements for ensuring value for money and for managing the authority's exposure to the risk of fraud and corruption.

- Consider the reports and recommendations of external audit and inspection agencies and their implications for governance, risk management or control.
- Support effective relationships between external audit and internal audit, inspection agencies and other relevant bodies, and encourage the active promotion of the value of the audit process.
- Review the financial statements, external auditor’s opinion and reports to Members, and monitor management action in response to the issues raised by external audit.
- Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

To require any member of the Cabinet or senior officer of the Council (Chief Executive, Corporate Directors, Directors or Heads of Service ) to attend before the Audit Committee to facilitate consideration by the Committee of any matters within the remit of such member or officer.

#### Health and Wellbeing Board

The Council has established a Health and Wellbeing Board. It is a “standing committee” of the Council established in accordance with the requirements of the Health and Social Care Act 2012.

The Board is made up of Councillors, Council officers, and representatives of the Swindon Clinical Commissioning Group, the NHS Commissioning Board, Swindon Healthwatch, the Police and Crime Commissioner and from the community, voluntary and social enterprise sector, together with such lay members as the Board may appoint. Its main statutory functions are to prepare Joint Strategic Needs Assessments and a Joint Health and Wellbeing Strategy with a view to improving the health and wellbeing of Swindon’s population and to reduce inequalities in health experienced by some communities. Its meetings are open to the public. Its key specific responsibilities are as set out in its Terms of Reference available on the Council’s website.

#### Licensing Committee

A Licensing Committee comprising a pool of 15 Councillors representing the political groups on the Council (Politically Balanced) will be appointed to consider, through a series of Sub-Committees as described below, the grant, refusal, revocation, amendment, modification and variance of such policies and consents, licences, permits or registrations, or the conditions, limitations or terms to apply to such consents and licences that fall within the remit and terms of reference of the bodies listed below. These powers shall be exercised by the following bodies:

Ad Hoc Licensing Sub-Committee

Private Hire / Hackney Carriage Licensing Sub-Committee

Licensing Panels

The Licensing Committee is constituted as a committee in accordance with the requirements of Section 6 of the Licensing Act 2003.

The Licensing Panel will be delegated to undertake all duties and exercise all powers of the Licensing Authority as set out in the Licensing Act 2003 in respect of the grant, refusal, revocation, amendment, modification and variance of such consents, licences, permits or registrations where such powers have not been delegated by the Licensing Committee to officers.

#### Planning Committee

To exercise the functions of the Council in relation to development control, legislation relating to historic buildings, conservation areas, including designation of conservation areas, advertisement control, hazardous substances consents, tree preservation orders (including applications to lop, top or fell protected trees), planning enforcement, and land adversely affecting the amenity of a neighbourhood.

To make decisions in respect of Commons registration, and of Public Path or Modification Orders that may change the route or status of public rights of way on the definitive map. This will include the creation, diversion, extinction and modification of definitive footpaths, bridleways, restricted bridleways and byways within the Borough of Swindon.

#### Special Committee

The Special Committee shall have delegated to it the power to act for the Council on the advice of the Chief Executive or Chief Officer on any policy decision or any particular matter that is urgent and necessary in the best interests of the Council.

### 8.02 Education

#### Schools Forum

The Schools Forum is not a Council body. It is an independent statutory body established under the Schools Forum (England) Regulations 2002 (as amended). Its function is to consider issues relating to the schools' budget, as set out in its Terms of Reference. The forum has at least 15 members, including representatives of the various types of schools within the Borough, the Diocese and the Council, including Black and Minority Ethnic Community representation.

#### Standing Advisory Council on Religious Education (SACRE)

SACRE is not a Council body. It is an independent statutory body established under Section 390 of the Education Act 1996. It has a range of functions, some of them advisory, and some of them executive. These are set out in the SACRE Constitution.

The SACRE is organised in groups and currently has four groups. Each group has a single vote. The groups represent:

- The Council (5 members)
- The Church of England (5 members)
- Teachers' Associations (8 members)
- Christian (except Church of England) and such Other Faiths to reflect the principal religious traditions in Swindon (10 members)

In addition to the above, SACRE can appoint up to 4 co-opted members (non-voting) for a specific purpose and period of time.

### 8.03 Joint Committees and Other Joint Bodies

#### Joint Overview and Scrutiny Committee

Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 provides that "Two or more local authorities may appoint a joint committee (a "joint overview and scrutiny committee") of those authorities and arrange for relevant functions in relation to any (or all) of those authorities to be exercised by the joint committee subject to such terms and conditions as the authorities may consider appropriate."

Part 4 (Section 30) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 also make specific provisions relating to the establishment of joint committees for the discharge of health scrutiny functions and requires local authorities to do so in certain circumstances.

The Council has agreed that where relevant and where viewed appropriate by the Overview and Scrutiny Committee, the Overview and Scrutiny Committee may establish, or agree to be represented on, a joint overview and scrutiny committee, with one or more other local authorities, for the purpose of the joint review and scrutiny of issues and services relevant to its remit.

#### Swindon and Wiltshire Local Enterprise Partnership

The Swindon and Wiltshire Local Enterprise Partnership (SWLEP) is a partnership organisation, now constituted as a company limited by guarantee with Wiltshire Council being the Accountable Body for the SWLEP. It is made up of representatives of Swindon and Wiltshire Councils and the local business community. Its role is to deliver economic sustainability and growth for the area including by way of the Strategic Economic Plan, Local Growth Deal and other EU and central government funded programmes.

It has a number of joint partnership bodies that include representation from Swindon Council as follows:

- Joint Strategic Economic Committee (JSEC): Its role is to act as a single voice for Local Government in Swindon and Wiltshire in relation to the delivery of the Strategic Economic Plan and Local Growth Deals and other EU and central government funded programmes; facilitate and enable collaboration between the two Unitary Authorities on economic development and related matters; provide local democratic accountability for the delivery of the

Strategic Economic Plan and the use of public resources to fund the implementation of the Plan, Local Growth Deal and other EU and central government promoted programmes.

- Joint Overview and Scrutiny Panel: Its role is to act as a critical friend, providing an overview of strategies and plans and providing independent scrutiny of the work of the SWLEP Board and JSEC.

### Police and Crime Panel

The Panel enables joint working between Swindon Borough Council and Wiltshire Council and has been given authority by the Police Reform and Social Responsibility Act 2011 to review and scrutinise the decisions and actions taken by the Police and Crime Commissioner for Wiltshire ('the Commissioner') in connection with the discharge of the Commissioner's functions. These give it certain powers including:

- To review the draft Police and Crime Plan and make recommendations to the Commissioner, who must consider them.
- To review the Commissioner's annual report, on the progress made towards their plan, and make recommendations at a public meeting, which the Commissioner must attend.
- Responsibility for complaints about the Commissioner, although serious complaints and conduct matters must be passed to the Independent Office for Police Conduct in line with legislation.
- To require the Commissioner to attend the Panel to answer questions.
- To veto the Commissioner's proposed precept, the amount people pay through their council tax for policing, by a two-thirds majority of its total Membership.
- To veto by a two-third's majority of its total Membership the Commissioner's proposed candidate for Chief Constable.
- To appoint an acting Commissioner where the incumbent Commissioner is incapacitated, resigns or is disqualified.
- To make recommendations about the appointment of the Deputy Commissioner as well as the Chief Executive and Chief Financial Officer of the Commissioner's Office.
- To support the effective exercise of the functions of the Commissioner.

## Article 9 – The Standards Committee

### 9.01 Composition

- (a) Membership. The Standards Committee will be composed of
- at least six Councillors (who may not be the Mayor, the Leader of the Council or the Leader of any other political group on the Council or a Cabinet Member);
  - up to two co-opted members who are not councillors or officers of the Council, and have not been so during the previous 5 years, and are not a close relative or friend of a councillor or officer of the Council (lay members).
  - up to two people who are members of any parish council wholly or mainly in the Council's area (to be nominated by the parish councils within the Borough) who are not also members of the Borough Council (parish members).
- (b) Lay and Parish Members. - Lay and parish members will not be entitled to vote at meetings;
- (c) Quorum. A quorum shall be three members including at least two councillors

### 9.02 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommending training on any aspect of conduct and behaviour for Councillors, and officers, where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;

- (h) determining any matters which may be referred to it by the Monitoring Officer or which may arise under consideration of complaints as to breaches of the Members Code of Conduct or the Protocol for Member / Officer Relations or any Code or Protocol applying to Members and Co-opted Members;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, arising from requests relating to interests set out in the Members Code of Conduct and/or under section 33 of the Localism Act 2011;
- (k) exercising (a) to (i) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensuring the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular the Standards Committee may:
  - receive an annual report on its operation
  - receive monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour;
- (m) reporting to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approving the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommending to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) reporting to the Council, should it deem it necessary, on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (q) approving procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

9.03 Advice and Procedure



The Council's Monitoring Officer or his/her nominee will act as Clerk to the Committee.

The Committee will adopt such procedures as it considers necessary to discharge its role and appoint such sub-committees or Panels as it thinks fit, including an Assessment or Hearings Panel as required.

## Article 10 – Community Involvement

### 10.01 Parishes

The Borough is completely parished, as follows:

Bishopstone

Blunsdon

Castle Eaton

Central Swindon North

Central Swindon South

Chiseldon

Covingham

Hannington

Haydon Wick

Highworth

Inglesham (Inglesham parish has an annual parish meeting, not elected parish councillors)

Liddington

Nythe, Eldene & Liden

South Marston

St Andrews

Stanton Fitzwarren

Stratton St Margaret

Wanborough

West Swindon

Wroughton

10.2 The Borough Council's relationship with the Parish Councils seeks to ensure inclusivity and enhanced ways of working. It will meet regularly with Parish Councils in the Borough both at Member level and at Officer level, these meetings to be

conducted in accordance with the working principles (in development) to govern its interactions with the Parish Councils..

- 10.03 The Borough Council will continue to work with the parishes to promote community involvement, enable community empowerment and devolve power and responsibility to neighbourhood level. The Borough will also continue to work with Residents Associations and other Community Groups to the same end.
- 10.04 The Borough Council will also continue to seek to ensure that community governance within the Borough is effective and convenient, and reflective of the identities and interests of communities within the Borough.

## Article 11 – Joint Arrangements

### 11.01 Arrangements to Discharge Certain Functions

In order to make arrangements for the discharge of certain functions, the Council or the Cabinet 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.

### 11.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executive to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet / executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as may otherwise be provided in the relevant regulations (e.g. SI 2012 / 1019) the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the executive in certain circumstances which must be specified and agreed at the time and are in accordance with the provisions of the Local Government Act 2000 and its associated Regulations (e.g. SI 2012 /1019).
- (e) The Council may establish joint arrangements with one or more local authorities to exercise functions required by Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (f) Details of any joint arrangements including any delegations to joint committees must be referred to within or added to this constitution as an annex when the joint arrangements are established.

### 11.03 Access to Information

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

### 11.04 Delegation to and from Other Local Authorities

- (a) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (b) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### 11.05 Contracting Out

The Cabinet may contract out to another body or organisation functions that 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.

## Article 12 – The Council’s Officers

### 12.01 Management Structure

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

Post/Functions and areas of responsibility:

#### (1) Chief Executive

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

Provision of professional advice to all parties in the decision making process.

Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.

Representing the Council on partnership and external groups

#### (2) Chief Operating Officer

Human Resources and Organisational Development

IT

Facilities Management

Customer Services

Registration Services

Bereavement Services

Security

Digital and Corporate Programmes

Business Support

Legal Services

Election Services

Policy and Communications

Performance

Health and Safety

Emergency Management and Business Continuity

Operations:

Waste Services, Parking, Housing Repairs, Highways Operations, Highways Assets, Stores, Fleet, Depot management and compliance, Parks, relationship with parishes

(3) Corporate Director of Adults, Health and Housing

Adult Social Care

Direct Services – Care

Care Commissioning

Learning Disabilities

Transitions

Relationship with Health

Social Housing

Homelessness

Public Health

Enterprise Works

Complex Care

(4) Corporate Director of Children's Services

Children's Social Work

Children Looked After and care leavers

Early Intervention and Prevention

Libraries

Adult Learning

Community Safety

Children's Community Health Services

Supported Employment

Education support services

## Special Education and Disabilities

### (5) Corporate Director of Finance and Assets (Section 151 Officer)

Financial Management

Treasury Management

Procurement

Property Assets

Architecture and Construction Management

Audit and Corporate Fraud

### (6) Director of Public Health

Public Health, in particular those responsibilities referred to in section 73A(1) of the National Health Service Act 2006;

Public Protection.

### (7) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

#### Post/Designation

Chief Executive - Head of Paid Service

Chief Legal Officer -Monitoring Officer

Corporate Director of Finance and Assets (Section 151 Officer) - Chief Finance Officer

### (8) Structure.

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

## 12.02 Functions of the Head of Paid Service

- (a) Discharge of functions by the Council. The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.



### 12.03 Functions of the Monitoring Officer

- (a) Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and its supporting documents and will ensure that it is widely available for use by Members, staff and the public.
- (b) Ensuring lawfulness and fairness of decision-making. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Leader and Cabinet in relation to a Cabinet function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) Supporting the Standards Committee. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) Receiving reports. The Monitoring Officer will receive reports relating to the Council which may be issued by the Local Government Ombudsman.
- (e) Conducting investigations. The Monitoring Officer will conduct investigations into matters referred by individuals under the local filtering of complaints process, and make reports or recommendations in respect of them to the Standards Committee.
- (f) Proper Officer for Access to Information. The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (g) Advising whether Cabinet decisions are within the Budget and Policy Framework. The Monitoring Officer will advise whether decisions of the Leader, the Cabinet or of individual Cabinet Members are in accordance with the Budget and Policy Framework.
- (h) Contributing to corporate management. The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
- (i) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors, and will support and advise Councillors and officers in their respective roles.
- (j) Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### 12.04 Functions of the Chief Finance Officer - Corporate Director of Finance and Assets - (Section 151 Officer)

- (a) Ensuring lawfulness and financial prudence of decision-making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Leader and Cabinet in relation to an executive function, and the Council's external auditor if he/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.
- (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) Give financial information. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 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.

12.06 Conduct

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

12.07 Employment

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

## Article 13 – Decision Making

### 13.01 Responsibility for Decision Making

The Council will, through its Constitution, issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

### 13.02 Principles of Decision Making

All decisions 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;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

### 13.03 Types of Decision

(a) Decisions reserved to full Council - Decisions relating to the functions listed in Article 4 of this constitution will be made by the full Council and not delegated.

(b) Key Decisions:-

(i) A key decision is any decision in relation to a Cabinet (Executive) function that results in the Council incurring spending that is, or the making of a saving that is, significant having regard to the budget for the service or function to which the decision relates; or a decision that is likely to have a significant impact on two or more Borough Council wards.

(ii) A decision taker may only make a key decision in accordance with the requirements of the Local Government Act 2000 and its Associated Regulations and in accordance with procedural rules set out in Part 4 of this Constitution.

(c) Strategic Decision:-

A strategic decision is a decision which has a significant effect on the delivery or direction of the service or function to which the decision relates.

### 13.04 Decision-making by the full Council

The Council meeting will follow the procedural rules set out in Part 4 of this Constitution (“Standing Orders”), when considering any matter.

13.05 Decision-making by the Cabinet and individual Cabinet Members

The Cabinet and individual Cabinet Members will follow the procedural rules set out in Part 4 of this Constitution, when considering any matter.

13.06 Decision-making by The Overview and Scrutiny Committee and Policy Development Committees

The Overview and Scrutiny Committee and Policy Development Committees will follow the procedural rules set out in Part 4 of this Constitution, when considering any matter.

13.07 Decision-making by other Committees and bodies / sub-committees established by the Council, including Locality Panels

Other Council committees, bodies and sub-committees will follow those parts of the procedural rules set out in Part 4 of the Constitution when considering matters as apply to them.

13.08 Decision-making by Council bodies acting as tribunals

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

13.09 Decision-making by Council Officers

Council officers shall exercise powers delegated to them in accordance with Article 14 and Part 8 of the Constitution – Scheme of Delegations and Designations of Proper Officers and shall record, in accordance with the relevant statutory provisions and regulations, any executive decisions that they may make.

## **Article 14 – Finance, Contracts and Legal Matters**

### **14.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **14.02 Contracts**

Every contract made by the Council will comply with the Standing Orders Relating to Contracts set out in out in Part 4 of this Constitution.

### **14.03 Legal Proceedings**

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

### **14.04 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 Chief Legal Officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents that in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised by him/her.

### **14.06 Delegation to Officers**

The Chief Executive, Corporate Directors, Directors and Heads of Service shall be authorised to carry out operational, management and administration functions within their areas of responsibilities and such actions are hereby ratified as acts and decisions of the Council. In particular, this delegation shall include:

- the incurring of expenditure provided for in the annual budget (subject to Part 4 of this Constitution);
- the service and withdrawal of notices, issue of licences, permits, consents, and similar authorisations;
- the entering into of leases and agreements and the settlement of claims;
- the selection of persons or companies to be invited to submit tenders and the acceptance thereof (subject to Part 4 of this Constitution) and the

provisions of the Local Government Act 1988 in respect of "defined activities";

- the entry and inspection of property;
- the investigation of relevant matters associated with the institution and defence of legal proceedings and the undertaking of such actions;
- responding to government consultations;
- the exercise of authority when required under Civil Contingencies and emergency planning legislation.

This delegation shall be exercised in accordance with the relevant statutory provisions and regulations and following appropriate prior consultation with the relevant Cabinet Member. Such decisions shall be recorded and where appropriate in accordance with openness and transparency regulations, published on the Council's website.

#### 14.07 Delegation to Officers during a major incident

Once the Chief Executive or her/his designated deputy, in consultation with the Leader of the Council or in her/his absence the Deputy Leader of the Council, has implemented the Gold/Strategic response to a major incident, the Chief Executive, Corporate Directors, Directors and Heads of Service shall be authorised to carry and key and strategic functions within their areas of responsibilities in consultation with the Leader or Deputy Leader and their respective Cabinet Members. Any such actions are hereby ratified as acts and decisions of the Council, and which shall also be reported to the next meeting of Cabinet or Council as appropriate.

#### 14.08 Absence of Chief Executive

The Chief Executive may make such arrangements for the carrying out of his/ her functions, in the event of him/her being absent or otherwise unable to act, by any other member of the Corporate Management Team.

## Article 15 – Review and Revision of the Constitution

### 15.01 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution and its supporting documents are given full effect and shall report to the Council on any proposed changes.

### 15.02 Protocol for Monitoring and Review of Constitution by the Monitoring Officer

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

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

### 15.03 Changes to the Constitution

- (a) Approval. Changes to the Constitution will only be approved by the full Council (or Special Committee) or, in accordance with Article 9, by the Standards Committee in relation to the relevant Codes and Protocols set out in Part 5 of the Constitution.
- (b) Change from a Leader and Cabinet form of Executive to Alternative Arrangements, or vice versa. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 16 – Suspension, Interpretation and Publication of the Constitution**

### 16.01 Suspension of the Constitution

- (a) **Limit to Suspension.** The Articles of this Constitution and its associated documents may not be suspended except by the full Council and only to the extent permitted below.
- (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 suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1.
- (c) **Rules Capable of Suspension.** The Council's Procedure Rules (Standing Orders), set out within Part 4 of the Constitution, refer to which of the following rules may be suspended.

### 16.02 Interpretation

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

### 16.03 Publication

The Chief Legal Officer will

- (a) on request, provide an electronic copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council, or as soon as practicable thereafter.
- (b) ensure that the Constitution is updated as necessary and available for inspection on the Council's Website and can be purchased by members of the local press and the public on payment of a reasonable fee.



## **Schedule 1: Description of the Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committee) and the Overview and Scrutiny Committee Procedure Rules.
2. Article 7 (The Executive (Cabinet)) and the Executive (Cabinet) Procedure Rules.
3. Article 11 (Joint Arrangements).
4. Article 13 (Decision Making) and the Access to Information Procedure Rules.
5. Part 3 (Responsibility for Functions).

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## **Part 3**

### **Responsibility for Functions**

## Responsibility for Functions

### 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

*Functions that may be, but not need be, the responsibility of the Cabinet*

Function	Decision making body	Delegation of functions
1. Any function under a local Act, other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Cabinet	Not Applicable
2. The determination of an appeal against any decision made by or on behalf of the authority.	Appeals and Licensing Committee – Unless outside its terms of reference in which case the Cabinet will decide	Not Applicable
3. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the Schools Standards and Framework Act 1998 (appeals against exclusion of pupils)	Education Appeals Panel	Not Applicable
4. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the Schools Standards and Framework Act 1998 (admission appeals).	Education Appeals Panel	Not Applicable
5. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the Schools Standards and Framework Act 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Education Appeals Panel	Not Applicable
6. The making of arrangements under section 20 (questions on	Council	Not Applicable

	<b>Function</b>	<b>Decision making body</b>	<b>Delegation of functions</b>
	police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.		
7.	Any function relating to contaminated land.		Director of Public Health
8.	The discharge of any function relating to the control of pollution or the management of air quality.		Director of Public Health
9.	The service of an abatement notice in respect of a statutory nuisance.		Director of Public Health
10.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.		Director of Public Health
11.	The inspection of the authority's area to detect any statutory nuisance.		Director of Public Health
12.	The investigation of any complaint as to the existence of a statutory nuisance.		Director of Public Health
13.	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.		Head of Planning, Regulatory Services and Heritage and the Chief Legal Officer
14.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.		Head of Planning, Regulatory Services and Heritage and the Chief Legal Officer

15.	The making of agreements for the execution of highways works.		Head of Highways and Transport and the Chief Legal Officer
16.	The appointment of any individual officer – (a) to any office other than an office in which he is employed by the authority; (b) to any body other than – (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Cabinet	Not Applicable
17.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	Not applicable

## 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Functions	Delegation of functions
Planning Committee	<b>Planning and conservation</b> Functions relating to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)	Head of Planning, Regulatory Services and Heritage <i>(Paragraphs 251 to 262 of the Scheme of Delegations and Designations of Proper Officers – Part 8 of this Constitution)</i>
Planning Committee	<b>Commons registration</b> The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations.	No further delegation to an officer
Cabinet	<b>Highways use and regulation</b> The exercise of powers relating to the	Head of Highways and Transport

	regulation of the use of highways as set out in Schedule 1 to the Functions Regulations.	<i>(Paragraphs 146 to 229 of the Scheme of Delegations and Designations of Proper Officers – Part 8 of this Constitution)</i>
Licensing Committee	<b>Taxi, Gambling, Casino, Gaming, Entertainment, Food, Liquor and Miscellaneous Licensing</b> Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations	Head of Planning, Regulatory Services and Heritage <i>(Paragraphs 236 to 250 and 296 to 301 of the Scheme of Delegations and Designations of Proper Officers – Part 8 of this Constitution)</i>  Head of Highways and Transport <i>(Paragraph 152 of the Scheme of Delegations and Designations of Proper Officers – Part 8 of this Constitution)</i>
Not Applicable	<b>Health and Safety</b> Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.	Director of Public Health <i>(Paragraphs 318, 330 and 396 to 398 of the Scheme of Delegations and Designations of Proper Officers – Part 8 of this Constitution)</i>
Appeals Committee	<b>Chief Officer Appeals</b> To consider appeals against dismissal, grading and grievances by Chief Officers and Deputy Chief Officers of the Council.	Head of Paid Service except for appeals by Chief Officers and Deputy Chief Officers

***For details of current membership of Council bodies – please contact the Monitoring Officer***

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

1. Article 7 of this Constitution sets out the terms of reference of the Cabinet.
2. The Leader of the Council has allocated portfolio responsibility to individual Cabinet Members and full details of their responsibilities are available from the Monitoring Officer and are on the Council's Website (Committee Services pages).
3. 'Key' and 'strategic' decisions (as defined in Article 13 of this Constitution) may be made by the Leader, a Cabinet Member within the remit of their portfolio, or the Chief Executive, Directors, following consultation with the Leader to, subject to the following: -
  - a) the Cabinet Member shall comply with the requirements of Article 13 of this Constitution relating to Decision-Making and Rule 21 of the Access to Information Procedure Rules (*Cabinet Member Decision Note*) and any other relevant Procedural Rules contained in this Constitution.
  - b) a Cabinet Member may refer any matter within their portfolio to Cabinet for decision.
  - c) the Leader may refer any executive matter to Cabinet for decision.
  - d) any matter which requires the approval of Council shall be referred to the Cabinet for the formulation of proposals to Council.
  - e) a Cabinet Member shall not exercise a function expressly delegated to an Officer.

### **4. SCHEME OF DELEGATION**

- (a) The Scheme of Delegation and Designation of Proper Officers is set out in Part 8 of the Constitution.
- (b) An officer may refer an executive matter for decision to a Cabinet Member or the Cabinet.
- (c) If an officer exercises any delegated powers either under the Scheme of Delegation or otherwise, this must be in compliance with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, and the Openness of Local Government Bodies Regulations 2014, and there must be appropriate prior



consultation with relevant ward members and the relevant Cabinet Member. Should an officer wish to consult formally with a Cabinet Member when exercising any delegated power, the officer shall use the Cabinet Member Briefing Note process as set out in the Council's Protocol for Report Writing.

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## **Part 4**

### **Rules of Procedure**

Section 1 - Council Procedure Rules (Standing Orders)

Section 2 - Access to Information Procedure Rules

Section 3 - Budget and Policy Framework Procedure Rules

Section 4 - Executive (Cabinet) Procedure Rules

Section 5 - Overview and Scrutiny Procedure Rules

Section 6 - Financial Procedure Rules (Financial Regulations)

Section 7 – Standing Orders Relating to Contracts

Section 8 - Officer Employment Procedure Rules

Section 9 – Council Petitions Scheme

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# **Council Procedure Rules (Standing Orders)**

## **Introduction**

The Council Procedure Rules (Standing Orders) deal with the operation, procedures and practices related to Council, Executive and other meetings. These rules include both statutory requirements and locally agreed procedures.

## **STANDING ORDERS**

### **PART I - MEETINGS AND PROCEEDINGS OF THE COUNCIL**

#### **Standing Order**

- 1 Meetings of Council
- 2 Chair of meeting
- 3 Quorum - Council Meetings
- 4 Order of business
- 5 Minutes of previous Council Meeting
- 6 Rules of Debate for Council Meetings
- 7 Motions which may be moved without notice
- 8 Notices of Motion
- 9 Motions on expenditure
- 10 Rescission of preceding resolution
- 11 Public Question Time at Council Meetings
- 12 Recording of Proceedings by the Media
- 13 Mode of considering Minutes of Committees or other Council Bodies
- 14 Voting
- 15 Questions
- 16 Motions affecting persons employed by the Council

- 17 Disorderly conduct
- 18 Disturbance by members of the Public
- 19 Suspension of Standing Orders
- 20 Interpretation of Standing Orders relating to meetings of the Council

## **1 MEETINGS OF COUNCIL**

1. - In addition to the annual meeting of the Council and any meetings convened by the Mayor or by members of the Council, meetings shall be held on such days as the Council at its Annual Meeting shall decide, provided that the Mayor may, in special circumstances, direct that the meeting shall be held on another day. All the meetings of the Council, except the Annual Meeting, shall be held at 7.00 p.m. except when, in special circumstances, the Mayor shall fix some other hour for holding any meeting.

## **2 CHAIR OF MEETING**

2. - Any power or duty of the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## **3 QUORUM - COUNCIL MEETINGS**

3. - (1) If, during any meeting of the Council, the person presiding, after causing the number of members present to be counted, declares that there is not a quorum present, the meeting shall stand adjourned for fifteen minutes.

(2) If, after fifteen minutes, the person presiding, after again causing the number of members present to be counted, declares that there is still no quorum present, the meeting shall end.

(3) Notwithstanding any provision in these standing orders that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph and which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Council, whether ordinary or extraordinary.

[The quorum for a Council of 57 is 15 members.]

## **4 ORDER OF BUSINESS**

4. - (1) Except as otherwise provided by paragraph (2) of this Standing Order, the order of business at every meeting of the Council shall be:-

- (a) To choose a person to preside if the Mayor and Deputy Mayor be absent.
- (b) To deal with any business required by statute to be done before any other

business.

- (c) To receive such communications as the Mayor or the Chief Executive may desire to lay before the Council.
- (d) To approve as a correct record and sign the minutes of the previous meeting of the Council.
- (e) To receive any declarations of interest from members of the Council.
- (f) To permit the asking of questions by members of the Public in accordance with Standing Order 11 (this does not apply to the Annual Council meeting).
- (g) To dispose of business (if any) remaining from the last meeting.
- (h) To receive and consider reports from officers in relation to:
  - the appointment of the Leader of the Council;
  - the appointment of Chairs and Vice-Chairs of such Committees and other Council bodies as the Council may decide;
  - political balance;
  - the appointment of Committees and other Council bodies;
  - the Council's Constitution;
  - appointment to other bodies;
  - dates and times of Council meetings; and
  - such other matters as the Chief Executive shall determine
  - and to pass any consequent resolutions; on receipt of such reports any member may propose a motion in relation to such matters and once a motion has been seconded and discussed and any proposed amendments disposed of, the Mayor shall put the motion to the vote. If further motions are required to deal with such matters the same procedure shall be followed (this does not apply to the Annual Council meeting).
- (i) To consider petitions for debate referred to Council under the Council's Petitions Scheme, as referred to in Part 4 of the Constitution (with the exception of the Annual Meeting of Council or at an extraordinary meeting of the Council, which is not convened to consider the subject matter of the petition) (this does not apply to the Annual Council meeting).
- (j) To receive and consider those minutes of Cabinet /Committees that are reserved to Council for decision under the Council's Constitution (These may be considered as part of relevant Cabinet or Committee Report) (this does not apply to the Annual Council meeting).
- (k) To consider notices of motion in the order in which notice has been received ((this does not apply to the Annual Council meeting)),
- (l) To receive and consider reports relating to those community strategies, key policies and plans referred to in Article 4 of Council's Constitution .
- (m) To receive and consider any reports from the relevant Chair on any conflict between decisions and recommendations of the Cabinet and of the Overview and Scrutiny Committee.
- (n) To receive and consider any reports from the Chair of the Overview and Scrutiny Committee on the reasons for refusing requests for scrutiny under the scrutiny call in process. The process being described in Part 4 of the Constitution.
- (o) To receive and consider written reports from the Cabinet and from Cabinet members on decisions taken relating to their portfolio responsibilities (with the exception of the Annual Council Meeting, Budget and Council Tax

Setting Meeting and any extraordinary Council meetings).

- (p) To receive and consider reports of chairs on the minutes of committees and other bodies (with the exception of the Annual Council Meeting, Budget and Council Tax Setting Meeting, and any extraordinary Council meeting).
- (q) To answer questions asked under Standing Order 15 (this does not apply to the Annual Council meeting).
- (r) Other business, if any, specified in the summons.

(2) Business falling under items (a) or (b) of paragraph (1) shall not be displaced, but, subject thereto, the foregoing order of business may be varied:

- (a) by the Mayor at his/her discretion;
- (b) by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

## **5 MINUTES OF PREVIOUS COUNCIL MEETING**

5. - (1) The Mayor shall put the question that the minutes of the meeting of the Council held on the "x" day of "y" be approved as a true record.

(2) No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Mayor shall sign the minutes.

(3) 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 of 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 of minutes) of that schedule.

## **6 RULES OF DEBATE FOR COUNCIL MEETINGS**

6.- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded and it shall, if required by the Mayor, be put into writing (unless notice has already been given in accordance with Standing Order 8), and handed to the Mayor before it is further discussed or put to the meeting.

(2) Any amendment to a motion which contains over 7 words shall be put in writing and a copy made available to all members present (Note: members are asked to arrange for copies of all amendments to be available in writing if the wording is known in advance of the meeting.)

(3) A member, when seconding a motion or amendment, may, if he/she then declare his/her intention to do so, reserve his/her speech until a later period of the debate, subject to the provisions of paragraph (14) of this Standing Order.



(4) A member shall address the Mayor when speaking and may choose to sit or stand. If two or more members indicate their wish to speak, the Mayor may call on one of them to do so. When a member is speaking the other members shall remain seated, unless rising to a point of order or in personal explanation.

(5) A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order. The speech of a member moving a motion (but not an amendment) shall not exceed ten minutes and all other speeches shall not exceed five minutes except by consent of the Council.

(6) A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) if the motion has been amended since he/she last spoke, to move a further amendment;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply given by paragraphs (12) or (14) of this Standing Order;
- (e) on a point of order;
- (f) by way of personal explanation.

(7) An amendment shall be relevant to the motion and shall be either:

- (a) to refer a subject of debate to a committee or other Council body for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others;
- (d) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.

(8) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.

(9) If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

(10) A member may with the consent of the Council signified without discussion:

- (a) alter a motion of which he/she has given notice (any such alteration (if it contains more than 7 words) shall be put in writing and a copy made available to all members present)  
or
- (b) with the further consent of his/her seconder alter a motion which he/she has moved;

if (in either case) the alteration is one which could be made as an amendment

thereto.

(11) A motion or amendment may be withdrawn by the mover with the consent of his/her seconder and of the Council, which shall be signified without discussion, and no member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

(12) The mover of the original motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his/her amendment. A member exercising a right of reply shall not introduce new matter. After every reply to which this Standing Order refers, a decision shall be taken without further discussion.

(13) When a motion is under debate, no other motion shall be moved except the following:

- (a) to amend the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to proceed to the next business;
- (e) that the question be now put;
- (f) that a member be not further heard;
- (g) that a member do leave the meeting;
- (h) a motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.

(14) A member may move without comment at the conclusion of a speech of another member:

- "That the Council proceed to the next business";
  - "That the question be now put";
  - "That the debate be now adjourned", or
  - "That the Council do now adjourn",
- on the seconding of which, the Mayor shall proceed as follows:
- (a) on a motion to proceed to the next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
  - (b) on a motion that the question be now put: unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first put to the vote the motion that the question be now put, and, if it is passed, then give the mover of the original motion the right of reply under paragraph (12) of this Standing Order before putting first any amendment under discussion and then immediately afterwards shall put the motion to the vote;
  - (c) on a motion to adjourn the debate or the meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, he/she shall put the adjournment motion to the vote without giving the mover of the original

motion his/her right of reply on that occasion.

(15) A member may rise on a point of order or in personal explanation and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision. A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the present debate.

(16) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

(17) Whenever the Mayor rises during a debate, a member then standing shall resume his/her seat and the Council shall be silent.

(18) Where a member has a disclosable pecuniary interest in any matter being discussed, then the member must declare that interest and withdraw from the room where the meeting is being held unless a dispensation has been obtained.

(19) Where a member has a personal and prejudicial interest in any matter being discussed, then the member must declare that interest and withdraw from the room where the meeting is being held immediately after making representations, answering questions or giving evidence, unless a dispensation to remain has been obtained.

## **7 MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE**

7.- The following motions may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is made.
- (2) Motions relating to the accuracy of the minutes of the previous meeting of the Council.
- (3) That an item of business specified in the summons have precedence.
- (4) Reference to a Committee or other Council body.
- (5) That leave be given to withdraw a motion.
- (6) Extending the time limit for speeches.
- (7) Amendments to motions.
- (8) That the Council proceed to the next business.
- (9) That the question be now put.
- (10) That the debate be now adjourned.
- (11) That the Council do now adjourn.
- (12) Suspending Standing Orders, in accordance with Standing Order 19.
- (13) Motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.
- (14) That a member named under Standing Order 17 be not further heard or do leave the meeting.
- (15) Giving consent of the Council where the consent of the Council is required by these Standing Orders.

Motions moved under this Standing Order (other than amendments to motions) need not be put in writing in accordance with Standing Order 6(1) and 6(2) unless the Mayor so requires it.

## **8 NOTICES OF MOTION**

8.-(1) Notice of every motion other than a motion which under Standing Order 7 may be moved without notice shall be given in writing, signed by the member or members of the Council giving the notice, and delivered before noon of the tenth day proceeding the day of the Council meeting at the office of the Chief Legal Officer, or within the same timescale by electronic mail (E-Mail) sent by the member to the Chief Legal Officer (from an "address" previously registered with Chief Legal Officer as belonging to that member) by whom it shall be dated and numbered in the order in which it is received and recorded in such a way that it shall be open to the inspection of every member of the Council.

(2) The Chief Legal Officer shall set out in the summons for every meeting of the Council all motions of which notice has been duly given, in the order in which they have been received, unless the member giving such a notice intimated in writing when giving it that he/she proposed to move it at some later meeting, or has since withdrawn it in writing.

(3) If a motion, thus set out in the summons, be not moved either by a member who gave notice thereof or by some other member on his/her behalf, it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

(4) Every motion shall be relevant to some matter in relation to which the Council have powers or duties or which affects the Borough.

## **9 MOTIONS ON EXPENDITURE**

9.-(1) Any motion which is moved otherwise than in pursuance of a recommendation or report of the Cabinet or of another Committee after the said recommendation or report has been approved by the Cabinet, and which if carried would materially alter the expenditure upon any service which is under the management of or the revenue under the management of any Committee or other body, or would involve capital expenditure, shall, when proposed and seconded, stand adjourned without discussion until Cabinet or any Council body affected by such motion shall have had opportunity to consider whether it wishes to comment on the proposal. The Cabinet also shall report on the financial aspect of the proposal.

(2) An amendment to a minute of a Committee moved in accordance with Standing Order 13(1) shall, however, not require to be referred to the Cabinet prior to its adoption unless the Council so directs.

## **10 RESCISSION OF PRECEDING RESOLUTION**

10.- No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed unless the notice thereof given in pursuance of Standing Order 8 bears the names of at least ten members of the Council. When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months. Provided that this Standing Order shall not apply to motions moved in pursuance of a recommendation of the Cabinet or other Council body.

## **11 PUBLIC QUESTION TIME AT COUNCIL MEETINGS**

11.-(1) A maximum of 15 minutes will be allowed shortly after the start of each meeting for questions.

(2) Any member of the public may ask one or more questions in accordance with the Council's Protocol and Guidance relating to 'Public Question Time at Council Meetings' included in Part 5 of the Council's Constitution.

(3) The question must be relevant, clear and concise. Public question time is not an opportunity to make speeches or statements.

(4) The question must be relevant to the powers and duties of the Council. It must not deal with confidential, personal or other information which the law permits the Council to consider in private, nor shall it relate to a specific planning application.

(5) A question may be written or oral. Prior notice to the Chief Legal Officer on a prescribed form is helpful, but not essential.

(6) Each questioner will be allowed to ask only one supplementary question.

(7) The Chair of the Committee or other Council body concerned or, at his/her discretion, another member may reply. He/she may decide that a written reply should be sent after the meeting.

(8) No debate will be allowed on any question or answer.

(9) The minutes of the meeting will record the name of the questioner, the subject matter and the name of the person replying.

(10) The Mayor or the Chair of the meeting's decision on the relevancy of a question or on the method of dealing with any issue in connection with this procedure shall be final.

## **12 RECORDING OF PROCEEDINGS**

12.- Audio and visual recordings of a meeting of the Council, the Cabinet, Committees and other Council bodies that is open to the public is permitted by legislation. Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting is requested to advise the Mayor, Leader, or Chair of the meeting of their intention to do so. That activity shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The Mayor, Leader or Chair of the meeting shall advise members that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehaviour or disruption of the meeting, the Mayor, Leader or Chair of the meeting may exclude any individual who is recording the meeting.

## **13 MODE OF CONSIDERING MINUTES OF COMMITTEES AND OTHER COUNCIL BODIES**

13.-(1) A motion to adopt and confirm (with or without amendment) those minutes of the Cabinet, a Committee or other Council body which has made recommendations on matters reserved to the Council for decision shall be moved by the Chair of that Committee or Council body (even if that Chair is not a member of the Council) or, in his/her absence, by the Vice-Chair or, in his/her absence, by some other member of the Committee or Council body. After such motion has been seconded, the Chair or the member moving the adoption and confirmation of the minutes shall call each minute by number.

When any minute is called, any member of the Council may speak upon such minute or may propose any amendment which is in accordance with these Standing Orders, but after the number of any minute has been called it shall not be competent to any member to speak upon or propose any amendment to a preceding minute. After each minute for confirmation has been moved, seconded and discussed and any proposed amendment disposed of, the Mayor shall put to the vote the adoption and confirmation of the said minute before the Chair or member moving the adoption of the minutes calls the next minute.

(2) The Chair or member of the Committee or Council body moving the adoption and confirmation of the minutes of a Committee or Council body moved under Standing Order 13(1) may make any statement or give any explanation which he/she may think desirable.

(3) The Minutes or reports of any Council body which are not for confirmation may be submitted to Council for information and for such debate as the Mayor shall allow in his/her absolute discretion, on the advice of the Chief Legal Officer.

(4) The reference to the minutes of a Committee in (1) above may include the minutes of any Joint Committee or Board of which the Authority is a constituent member.

## **14 VOTING**

14.-(1) The mode of voting at meetings of the Council shall be by show of hands or by electronic voting. If the voting is by show of hands the decision of the Mayor shall be final. Immediately before the vote a formal division may be demanded by not less than seven members, and in that case the names for and against shall be recorded in the minutes.

(2) Where, immediately after a vote is taken at a meeting of the Council, any member of the Council so requires, there shall be recorded in the minutes of the meeting whether that person cast his/her vote for the motion or against the motion, or whether he/she abstained from voting.

(3) Immediately after any vote is taken on the budget or setting of the Council Tax at a budget decision meeting of the Council 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.

## **15 QUESTIONS**

15.-(1) A member of the Council may ask the Leader of the Council, relevant Cabinet member or Chair of a Committee or other Council body any question upon any minute of a Committee or Council body submitted to the Council for confirmation when such minute is under consideration by the Council or any question upon any Minute of the Cabinet which is before the Council for information.

(2) A member of the Council may:

- (a) If notice in writing, including by electronic mail (email), has been given to the Chief Legal Officer not later than noon on the fifth day preceding the day of the Council meeting, ask the Mayor or the Chair of any Committee or any other Council body any question on any matter in relation to which the Council have powers or duties or which affects the Borough, and
- (b) With the permission of the Mayor, put to him/her or to the Chair of any Committee or other Council body any question relating to urgent business of which such notice has not been given, but a copy of any such question shall, if possible, be delivered to the Chief Legal Officer not later than 2 o'clock in the afternoon of the day of the meeting.

(3) Every question shall be put and answered without discussion. The person to whom a question has been put pursuant to Standing Order 15(2) may answer in writing or be allowed up to two minutes to answer orally. In either event the questioner may then ask a supplementary question and shall be allowed one minute to do so. The person to whom a supplementary question has been put shall be allowed up to two minutes to answer.

## **16 MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

16.- If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972, shall be exercised.

## **17 DISORDERLY CONDUCT**

17.-(1) Members must not use improper and/or inappropriate language to each other or about others at any meeting of the Council and, in particular, offensive and/or abusive words must not be used.

(2) If, at a meeting, any member of the Council, in the opinion of the Mayor, misconducts himself/herself by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively or by using improper and/or inappropriate language or by wilfully obstructing the business of the Council, the Mayor or any other member may move "that the member named be not further heard" and the motion, if seconded, shall be put and determined without discussion.

(3) If the member named continues his/her misconduct after a motion under the foregoing paragraph has been carried the Mayor shall:-  
EITHER move "That the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion).  
OR, adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

(4) In the event of general disturbance which in the opinion of the Mayor renders the due and orderly dispatch of business impossible, the Mayor, in addition to any powers vested in him/her, may adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

(5) In the event of continued misconduct under (3) or (4), the Mayor direct that any live broadcast be suspended.

## **18 DISTURBANCE BY MEMBERS OF THE PUBLIC**

18.- (1) If a member of the public interrupts the proceedings at any meeting of the Council, the Mayor shall warn him/her. If the person continues to interrupt the Mayor shall order the removal of that person from the Council Chamber or meeting room. In the case of any general disturbance the Mayor shall order that that part of the Chamber or meeting room open to the public shall be cleared.

(2) In the event of continued misconduct under (1), the Mayor direct that any live broadcast be suspended.



## **19 SUSPENSION OF STANDING ORDERS**

19.-(1) Subject to paragraph (2) of this Standing Order, any of the preceding Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved, except Standing Orders 5(3) and 14(2)&(3).

(2) A motion to suspend Standing Orders shall not be moved without notice having been given in accordance with Standing Order 8 unless there shall be present at least one-half of the whole number of the members of the Council.

## **20 INTERPRETATION OF STANDING ORDERS RELATING TO MEETINGS OF THE COUNCIL**

20.- The ruling of the Mayor as to the construction or application of any of these standing orders, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

**PART II - MEETINGS AND PROCEEDINGS OF THE COMMITTEES  
AND  
OTHER COUNCIL BODIES**

**Standing Order**

- 21** Appointment of Committees and Other Council Bodies
- 22** Constitution of Committees and Other Council Bodies
- 23** Election of Chair and Vice-Chair of Council Bodies
- 24** Special meetings of Committees and Other Council Bodies
- 25** Sub-Committees and Other Council Bodies
- 26** Quorum of Committees and Other Council Bodies
- 27** Voting in Council Bodies
- 28** Public Question Time at Council Bodies
- 29** Recommendation by one Council Body to another
- 30** Proposer of motion may attend
- 31** Resignation of members of Council Bodies
- 32** Casual Vacancies on Committees and Other Council Bodies
- 33** Meetings of Council Bodies between Elections and Annual General Meeting
- 34** Submission of Budget
- 35** Proceedings of Council Bodies to be confidential
- 36** Motions affecting persons employed by the Council
- 37** Conduct of members and members of the public

**21 APPOINTMENT OF COMMITTEES AND OTHER COUNCIL BODIES**

21.- The Council shall, at the Annual Meeting, appoint such Committees or other bodies as it is required to appoint by or under any statute or under Standing Order 22 (Constitution of Committees), and may at any time appoint such other Committees as are necessary to carry out the work of the Council but, subject to any statutory

provision in that behalf,

(i) shall not appoint any member of a Committee or other Council body so as to hold office later than the next Annual Meeting of the Council;

(ii) may at any time dissolve a Committee or alter its membership.

(iii) shall not appoint or remove any Councillor the Leader has appointed to Cabinet.

## **22 CONSTITUTION OF COMMITTEES AND OTHER COUNCIL BODIES**

22.- (1) The following Committees shall be the Standing Committees of the Council:-

Audit

Appeals

Appointments

Cabinet

Health and Wellbeing Board

Licensing

Overview and Scrutiny Committee

Policy Development Committees (no. 3)

Planning

Special

Standards

(Note: the above bodies are referred to as Committees or as Council Bodies throughout these Standing Orders).

## **23 ELECTION OF CHAIR AND VICE-CHAIR OF COUNCIL BODIES**

23.- Unless previously appointed by the Council, every Committee and other Council body shall, at its first meeting before proceeding to any other business, elect a Chair and a Vice-Chair for the year, in whose absence from a meeting a Chair for the meeting shall be appointed. No member of the Council shall at one and the same time be Chair of more than one Standing Committee and Vice-Chair of more than one other Standing Committee except with the consent of the Council.

## **24 SPECIAL MEETINGS OF COMMITTEES AND OTHER COUNCIL BODIES (EXCEPT COUNCIL)**

24.- The Chair, or Vice-Chair in the absence of the Chair of a Committee or other Council body, or the Mayor may call a special meeting of a Committee or other Council body at any time. A special meeting shall also be called on the requisition of a quarter of the whole number of the Committee or other Council body delivered in writing to the Chief Legal Officer, but in no case shall less than four members requisition a special meeting. The summons to the special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting, unless, by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the

item should be considered at the meeting as a matter of urgency.

## **25 SUB-COMMITTEES AND OTHER COUNCIL BODIES**

25.-(1) Every Committee or other Council body appointed by the Council may appoint Sub-Committees for purposes to be specified by that body.

(2) The Chair and Vice-Chair of the Committee or other Council body shall be entitled to be appointed to every Sub-Committee constituted by that Committee. The Chair and Vice-Chair shall indicate at the time the Sub-Committee is constituted if they do not wish to be appointed.

(3) References in these Standing Orders to "Committees" shall be deemed to apply to Sub-Committees and other Council bodies if the context so requires.

## **26 QUORUM OF COMMITTEES AND OTHER COUNCIL BODIES**

26.- Except where authorised by statute, or as set out in Article 8 of the Council's Constitution or as may be ordered by the Council, business shall not be transacted at a meeting of any Standing Committee or Sub-Committee unless at least one quarter of the whole number of the Committee or Sub-Committee is present; provided that in no case shall the quorum be less than two members.

## **27 VOTING IN COUNCIL BODIES**

27.-(1) Voting at a meeting of a Committee, Sub-Committee or other Council body shall be by show of hands. Electronic voting may be used at meetings held in the Council Chamber.

(2) The Chair's decision as to such voting shall be final unless immediately after such decision a formal division be demanded by not less than three members present and entitled to vote, and in that case the names for and against shall be taken down and entered on the minutes.

(3) Where, immediately after a vote is taken at a meeting of the Committee, Sub-Committee or other Council body, any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question, or whether he/she abstained from voting.

## **28 PUBLIC QUESTION TIME AT COUNCIL BODIES**

28.-(1) At ordinary meetings of the Council's Cabinet, Committees and other relevant bodies, questions can be asked of the Chairs of committees

(2) The total time set aside for such questions and answers will be limited to 15 minutes which can be extended at the Chair's discretion.

(3) Public Question Time at the Council's Cabinet, Committees and other bodies shall be carried out in accordance with the provisions of Standing Order 11 relating to Public Questions at the Council Meeting and the Public Question Time at Council Meetings Protocol and Guidance set out in Part 5 of this Constitution.

## **29 RECOMMENDATIONS BY ONE COUNCIL BODY TO ANOTHER**

29.-(1) Any recommendation made by one Committee or body to another shall be forwarded direct to the Committee or body concerned, together with an accompanying report from the appropriate officer, and be considered by such body before it is submitted to the Council.

(2) In the event of the Cabinet not having approved any recommendations of another Committee or body, where such recommendations require confirmation by the Council, the Chair and the Vice-Chair of the Cabinet shall, on the resolution of such other Committee or body arising for consideration by the Council, move and second respectively the reference back of such resolution. On the first occasion on which such resolution of such other body shall be under consideration by the Council such resolution shall be referred back to the appropriate body without discussion and no comment or speech shall be made or vote taken on the relevant resolution of the Cabinet.

(3) In the event of such other body submitting a like resolution on a second occasion and the Cabinet again not approving the recommendation therein, the Chair and Vice-Chair of the Cabinet shall, on the said resolution being brought before the Council, move and second respectively that it be not approved and the said resolution shall then be open for discussion and determination by the Council. Any such motion shall be a permitted amendment in accordance with Standing Order 6(7).

(4) In the event of the Cabinet resolving to recommend the Council to modify a resolution of another Committee or body, such modification shall be moved and seconded by the Chair and the Vice-Chair of the Cabinet on the resolution of such other Committee arising for consideration by the Council.

(5) In Standing Orders 29(2), (3) and (4) above, any other member or members of the Cabinet may act in the absence of the Chair and Vice-Chair.

## **30 PROPOSER OF MOTION MAY ATTEND**

30.- A member of the Council who has moved a motion at Council and which has been referred to any Committee or other Council body shall have notice of the meeting of the body at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he/she attends shall have an opportunity

of explaining the motion.

### **31 RESIGNATION OF MEMBERS OF COUNCIL BODIES**

31.- Any member of a Council Body desiring to resign such membership shall signify the resignation to the Council in writing and it shall take effect upon receipt of the notification by the Chief Legal Officer.

### **32 CASUAL VACANCIES ON COMMITTEES AND OTHER COUNCIL BODIES**

32. - Casual vacancies, caused by the death or resignation or disqualification of a member of a Council body, shall be filled by the Council at its discretion.

### **33 MEETINGS OF COUNCIL BODIES BETWEEN ELECTIONS AND ANNUAL COUNCIL MEETING**

33.- In any year in which ordinary elections of Councillors are held, no Council body, unless specially called together by, or at the request of, the Mayor shall hold any meeting between the date of the ordinary Election of Councillors and the date of the Annual Council Meeting in each year.

### **34 SUBMISSION OF BUDGET**

34.-(1) It shall be the duty of the Cabinet to consider the overall budget of the Council and to make recommendations to the Council in relation thereto.

(2) Every Council body with decision-making powers, except as provided by paragraph (4) below, may prepare and submit to the Cabinet an estimate of the anticipated spending and income on its revenue account for the ensuing year.

(3) Every Council body with decision making powers, except as provided by paragraph (4) below, may prepare and submit to the Cabinet estimates of the anticipated capital spending proposed to be incurred by them for the ensuing year.

(4) Except as otherwise determined by the Council, a Council body with decision making powers shall, before incurring any spending not included in an approved estimate (other than rates, taxes, insurance and loan charges), submit to the Cabinet, and subsequently the Council, a supplementary estimate accompanied by a detailed statement by the responsible officer in support of the spending, provided that in matters of urgency a duly authorised Sub-Committee of the Cabinet and subsequently the Council may, pending approval, authorise such expenditure. A Council body shall also submit to the Cabinet (or where urgent a Sub-Committee of the Cabinet) any proposal involving a reallocation of the budget provision for spending provided in the annual estimates and any proposal involving a significant

reduction of income included in the approved annual estimates.

### **35 PROCEEDINGS OF COUNCIL BODIES TO BE CONFIDENTIAL**

35.-(1) All agenda, reports and other documents marked "Not for Publication" and all proceedings of Committees and other Council bodies similarly marked "Not for Publication" shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

(2) Nothing in this Standing Order shall prevent the publication of information required to be published by statute.

(3) Notwithstanding anything contained in this Standing Order the Chief Executive may, having consulted with the Leader of the Council or, in the absence of the Leader, the Deputy Leader of the Council, give information to the public in such manner as the Chief Executive may deem to be most suitable.

### **36 MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

36.- Standing Order 16 shall apply to meetings of Committees and other Council bodies in the same way as it applies to meetings of the Council.

### **37 CONDUCT OF MEMBERS AND MEMBERS OF THE PUBLIC**

37.- Standing Orders 6(18), 17 and 18 shall apply to meetings of Committees and other Council bodies in the same way as they apply to meetings of the Council, except that references to "the Mayor" shall be construed as references to "the Chair of the meeting".

## **PART III - MISCELLANEOUS**

### **Standing Order**

#### **Appointment of Staff**

- 38 Canvassing of and recommendations by Councillors
- 39 Relatives of Councillors or officers
- 40 Appointments
- 41 Disciplinary Action
- 42 Assistants for Political Groups

#### **Documents**

- 43 Sealing of Documents
- 44 Authentication of documents for legal proceedings
- 45 Confidential Documents

#### **Conduct of Councillors and Officers in relation to Council business**

- 46 No directions to be given to persons making appointments or taking disciplinary action
- 47 Councillors and officers not to bind the Council
- 48 Interest of Councillors in contracts and other matters
- 49 Interest of officers in Contracts and other matters

#### **Standing Orders**

- 50 Variation and revocation of Standing Orders
- 51 Standing Orders to be given to Councillors
- 52 Interpretation of Standing Orders
- 53 Petitions



## **38 CANVASSING OF AND RECOMMENDATIONS BY COUNCILLORS**

38.-(1) Canvassing of Councillors or officers of the Council or any Committee or other body of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment. The purport of this paragraph of this Standing Order shall be included in any form of application.

(2) A Councillor or officer of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a Councillor from giving a reference or written testimonial of a candidate's ability, experience or character, for submission to the Council with an application for appointment. Provided always that (a) any Councillor or officer who shall have given a reference or written testimonial of a candidate's ability shall not be present at the discussion or meeting during such time as the appointment is being considered, and (b) an officer shall not be regarded as being in breach of this standing order if he/she advertises a post in the normal course of his/her duties.

## **39 RELATIVES OF COUNCILLORS OR OFFICERS**

39.-(1) A candidate for any appointment under the Council who knows that he/she is related to any Councillor or officer of the Council shall when making application disclose that relationship in writing to the Chief Executive. A candidate who fails to disclose such a relationship shall be liable to be disqualified for the appointment and, if appointed, shall be liable to dismissal.

(2) The purport of this Standing Order shall be included in any form of application.

## **40 APPOINTMENTS**

40.-(1) Recruitment of employees to the Council shall be in accordance with the provisions of the Council's Equal Opportunities Policy so far as it does not conflict with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 or any other statutory provision and the appointment of staff shall be the responsibility of the Council's Head of Paid Service or his/her nominee except as otherwise provided in this Constitution and these Standing Orders and this shall be carried out in accordance with the process set out in this Constitution's Officer Employment Procedural Rules (Part 4) of the Constitution.

(2) Where the Council proposes to appoint a Chief Officer (as defined in the Local Government and Housing Act 1989), and it is not proposed that the

appointment be made exclusively from among their existing officers, the Head of People, Performance and Engagement shall -

- (a) draw up a statement specifying -
  - (i) the duties of the officer concerned, and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

(3) Where a post has been advertised as provided in Standing Order 40(2)(b), a Sub-Committee appointed by the Appointments Committee for each post to be filled shall -

- (a) interview all qualified applicants for the post, or
- (b) select a short-list of such qualified applicants and interview those included on the short-list.

(4) Where no qualified person has applied, the Head of People, Performance and Engagement shall make further arrangements for advertisement in accordance with Standing Order 40(2)(b).

(5) The provisions of Standing Order 40(2) and (3) shall not apply to any appointment in accordance with Section 9 of the Local Government and Housing Act 1989 (Assistants for Political Groups) or to any appointment of a non-statutory Chief Officer within the meaning of Section 2(7)(a) or (b) of that Act except those officers whose conditions of service are to be determined by the Joint Negotiating Committee for Chief Officers.

- (6) (a) Where the post to be filled is that of the Head of People, Performance and Engagement, the Appointments Committee shall take the steps referred to in Standing Order 40(2) and (4).
- (b) Where the post to be filled is that of Head of Paid Service (as defined in Section 4 of the Local Government and Housing Act 1989) or the Officer having responsibility for the purpose of Section 151 of the Local Government Act 1972 for the administration of the Council's financial affairs or the Monitoring Officer (as defined in Section 5 of the Local Government and Housing Act 1989), the steps referred to in Standing Order 40(2) and (4) shall be taken by the Appointments Committee.

(7) Every appointment of a non-statutory Chief Officer (as defined in Section 2(7)(a) or (b) of the Local Government and Housing Act 1989) whose conditions of service are to be determined by the JNC for Chief Officers shall

be made by the Appointments Committee or a sub-committee of that committee or by the Joint Selection and Appointment Committee for joint appointments with Health partners under Section 75 of the Health Act 2006.

## **41 DISCIPLINARY ACTION**

41.-(1) Neither the Head of the Council's Paid Service, nor the Officer having responsibility for the purpose of Section 151 of the Local Government Act 1972 for the administration of the Council's financial affairs, nor the Monitoring Officer (a "relevant officer") may be dismissed by the Council other than in accordance with the procedure referred to in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders)(England) Regulations 2001.

(2) The procedure mentioned in paragraph (1) is that:

(a) The Council must invite relevant independent persons to be considered for appointment to a Panel (the "Panel") appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of a relevant officer, with a view to appointing at least two such persons to the Panel.

(b) In paragraph (i) above, a relevant independent person is any person who has been appointed by the Council under Section 28(7) of the Localism Act 2011 or, where there are fewer than 2 such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

(c) Subject to paragraph (iv) below, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph (i) above in accordance with the following priority order: –

(i) A relevant independent person who has been appointed by the Council and who is a local government elector;

(ii) Any other relevant independent person who has been appointed by the Council;

(iii) A relevant independent person who has been appointed by another authority or authorities.

(d) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (iii) above but may do so.

(e) The Council must appoint any Panel at least 20 working days before the Council meeting (the "relevant meeting") which is to consider whether or not to approve a proposal to dismiss a relevant officer.

(f) Before the taking of a vote at the relevant meeting referred to in paragraph (v) above, on whether or not to approve such a dismissal, the Council must take into account, in particular –

(i) Any advice, views or recommendations of the Panel;

(ii) The conclusions of any investigation into the proposed dismissal;

and

(iii) Any representations from the relevant officer.

(g) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

(3) The taking of dismissal, and/or disciplinary action, against a member of staff shall be the responsibility of the Council's Head of Paid Service or his/her nominee except as otherwise provided in this Constitution and these Standing Orders and shall be carried out in accordance with the process set out in this Constitution's Officer Employment Procedural Rules (Part 4 of this Constitution).

(Note - This Standing Order is partly required to satisfy the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001).

## **42 ASSISTANTS FOR POLITICAL GROUPS**

42.- (1) This Standing Order shall apply when the authority resolves to exercise their powers under Section 9 of the Local Government and Housing Act 1989 to make appointments to posts the duties of which are to provide assistance to members of a political group in the discharge of any of their functions as members of the authority.

(2) No such appointment shall be made until the authority has allocated such a post to each political group which qualifies for such a post under that Section.

(3) No such appointment shall be made in respect of any political group which does not qualify for such appointment under that Section.

(4) Not more than one such post shall be allocated to any political group.

(5) Unless the political group to which the post is allocated indicate that they are content that the terms and conditions of any such post shall be less favourable than they would otherwise be, the terms and conditions of appointment to all such posts (including the terms required to be included by sub-section (3) and (4) of that Section, and the hours to be worked and scale of remuneration to be paid) shall be the same for all such posts.

(Note - Section 9 of the Local Government and Housing Act 1989 requires Standing Orders to be made covering the matters set out in Section 9(5) before an appointment can be made.)

### **43 SEALING OF DOCUMENTS**

43.- (1) The Common Seal of the Council shall be kept in a safe place in the custody of an officer so directed by the Chief Legal Officer.

(2) The Common Seal of the Council shall be affixed to any document only on the authority of:

- (a) a resolution of the Council, a Committee or other Council body with decision-making powers, or
- (b) a decision by the Council, or a duly authorised Committee or other Council body or officer to do anything where a document under the Common Seal is necessary to complete the action.

(3) The Seal shall be attested by the Chief Legal Officer, and an entry of every sealing shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person who shall have attested the seal.

### **44 AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS**

44.- Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Chief Legal Officer unless any enactment otherwise requires or authorises or the Council give the necessary authority to some other person for the purpose of such proceedings.

### **45 45. CONFIDENTIAL DOCUMENTS**

45.- The contents of any document (other than Committee / Council body documents which are referred to in Standing Order 35) which may be circulated to any Councillor or non-elected member of the Council and which is marked "Not for Publication" or "private and confidential" or with words having a similar meaning shall not be disclosed to any other person or persons. The Chief Legal Officer, however, having consulted with the Chair of the Cabinet, and, where appropriate, with the Chair of any other Committee or Council body, may agree to disclose the contents of any such document (or any part of any such document) at any time when, in his/her opinion, there is no longer any need for the document to be treated as not for publication. In the absence of the Chairs, the Chief Legal Officer shall consult with Vice-Chairs in this matter.

#### **46 NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION**

46.- Neither the Council, nor any Committee or Sub-Committee or other Council body, nor any other person shall directly or indirectly

- (a) give directions to any person taking any step in relation to an appointment to a post in the paid service of the authority as to the identity of the person to be appointed;
- (b) give directions about the taking of any disciplinary action in relation to a person in the paid service of the authority; or
- (c) otherwise interfere with the making of such an appointment, or the taking of disciplinary action;

provided that

- (i) any body which is, or any person who is, empowered to take any step in relation to an appointment, or to take disciplinary action may give such directions as may be necessary to give effect to a decision which it, or he/she, has taken in exercise of that power; and
- (ii) the Council, or any Committee or Sub-Committee or other Council body of the Council, may call for a review of the conduct or capability of any employee.

#### **47 COUNCILLORS AND OFFICERS NOT TO BIND THE COUNCIL**

47.- No member of the Council and, except as duly authorised, no officer shall, either orally or in writing, enter into any contract or obligation or give authority on the Council's behalf.

#### **48 INTEREST OF COUNCILLORS IN CONTRACTS AND OTHER MATTERS**

48.- (1) If, at a meeting of the Council, a Committee or other Council body, there is under consideration any contract, proposed contract, or other matter in which any member of the Council or Committee or other Council body then present has an interest within the meaning of the Council's Code of Conduct (other than a personal interest), that Councillor or non-elected member shall retire from the meeting during the consideration of the said contract, proposed contract or other matter, unless

- (a) the disability imposed upon him/her under that Code of Conduct has been removed by the Council's Standards Committee; or
- (b) the contract, proposed contract or other matter is before the Committee, other Council body or Council as part of the report of a Committee or other Council body and is not itself the subject of debate.

(2) Even where any member has given written notification under the

Council's Code of Conduct to the Council's Monitoring Officer of his/her financial interest in any contract or other matter which is under consideration, he/she shall nevertheless orally remind the meeting of that interest and shall retire from the meeting during the relevant discussion unless the exceptions referred to in Standing Order 48(1)(a) and (b) apply. Any such reminder shall be recorded in the minutes of the meeting.

## **49 INTEREST OF OFFICERS IN CONTRACTS AND OTHER MATTERS**

49.- (1) If it comes to the knowledge of any employee of the authority, that he/she has a disclosable pecuniary interest in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by the Council or any Committee or other Council body, and which (in either case) is not

- (a) the contract of employment (if any) under which he/she serves the authority,
- (b) the tenancy of a dwelling provided by the authority, or
- (c) a contract of which he/she would have to give notice under section 117 of the 1972 Act

he/she shall as soon as practicable give notice in writing to the Monitoring Officer of the fact that he/she is interested therein.

(2) For the purposes of this Standing Order, a disclosable pecuniary interest is an interest that, if the employee were a member of the Council, and if the contract or other matter were to be considered at a meeting of the Council at which he/she was present, he/she would have to disclose their interest under statute or the Council's Code of Conduct.

(3) The Monitoring Officer shall record in a register to be kept for the purpose, particulars of any notice of a pecuniary interest given by an employee of the authority under Section 117 of the 1972 Act or paragraph (1). The register shall, during the ordinary office hours of the authority, be open for inspection by any member of the Council.

(4) Where an officer submits a report to a meeting on a matter in which he/she has declared an interest under Section 117 of the 1972 Act or paragraph (1), he/she shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.

(5) Where any officer advises orally a meeting of the Council, a Committee or other Council body on a contract, grant, proposed contract or other matter and has declared a pecuniary interest in that matter, whether under the requirements of Section 117 of the 1972 Act, or of paragraph (1), he/she shall remind the meeting orally of that interest, and the reminder shall be recorded in the minutes of the meeting.

## **50 VARIATION AND REVOCATION OF STANDING ORDERS**

50.- Except where it is in accordance with a recommendation of the Cabinet, any motion to add to, vary or revoke these standing orders shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, and in the meantime shall stand referred to the Cabinet for report to that meeting.

(For the avoidance of doubt the Annual Meeting shall be treated as an ordinary meeting of the Council for the purposes of these Standing Orders.)

## **51 STANDING ORDERS TO BE GIVEN TO COUNCILLORS**

51.- A copy of these Standing Orders shall form part of the Council's Constitution and, on request, shall be given to each member of the Council by the Chief Legal Officer.

## **52 INTERPRETATION OF STANDING ORDERS**

52.- (1) Any reference to the Chief Executive or Chief Legal Officer in these Standing Orders shall be taken to include an officer authorised by him/her.

(2) Any reference to a Chief Officer or other officer in these Standing Orders shall be without prejudice to the authority of the Chief Executive to give directions to such officers in any matter.

## **53 PETITIONS**

53. Petitions received by the Council will be considered in accordance with the Council Petitions Scheme as set out in Part 4 to the Constitution.

Latest Version: July 2023



# **Access to Information Procedure Rules**

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## **1 Scope**

These rules apply to all meetings of the Council and its Standing Committees (Overview and Scrutiny Committee, the Policy Development Committees, the Standards Committee, the Special Committee, Audit Committee, Health and Wellbeing Board and regulatory committees (including Planning Committee) 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 Record Meetings**

Members of the public may attend, record, and report on all meetings using modern media in accordance with the Council's agreed Protocol and Guidance subject only to the exceptions in these rules.

## **4 Notices of Meetings**

### **4.1 Meetings in Public**

- (a) The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the Council's Website ([Meetings, Agendas and Minutes page](#))
- (b) Urgent Business – If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide five clear days' notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the body concerned, the Monitoring Officer is authorised to call such a meeting, subject to the agenda and reports being available to the public at the time at which the meeting is convened.

### **4.2 Private Meetings or Parts of Meetings Where the Public Are To Be Excluded**

- (a) The Council will give at least 28 clear days' notice of any meeting of the Cabinet or a committee of the Cabinet that is likely to consider confidential or exempt information by providing details of the meeting on the Council's Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)) and at the

Civic Offices, Euclid Street, Swindon. This notice will give details of why the Council intends to hold the meeting in private.

- (b) The Council will give a further notice of its intention to hold part of a meeting in private at least five clear days before the meeting. The notice must include reasons for the meeting to be held in private together with details of any representations that have been received about why the meeting should be open to the public; and a statement of the Council's response to such representations.
- (c) Special Urgency – If the date by which a meeting must be held means it is not practicable to give the notices set out in (a) and (b) above, the meeting can only take place in private if the Chair of the Overview and Scrutiny Committee (or in his /her absence the Mayor or in the absence of both the Deputy Mayor) agrees that the meeting is urgent and it is not reasonable to defer it.

## **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 on the Council's Website ([Meetings, Agendas and Minutes page](#)), through the Modern.gov app, and, on request (during open hours) at the Civic Offices, Euclid Street, Swindon, at least five clear days before the meeting. If an item is added to the agenda later, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

## **6 Supply of Copies**

On request, the Council will supply copies of:

- (a) any agenda and reports that 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 Monitoring 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 other justified costs.

## **7 Access to Minutes after the Meeting**

The Council will make available, including on its website, copies of the following for at least six years after a meeting:

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

## **8 Background Papers**

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

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

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

but does not include published works or those that disclose exempt or confidential information (as defined in Rule 10) (and in respect of Cabinet reports, the advice of any political advisor).

### **8.2 Public Inspection of Background papers**

On request, the Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers.

## **9 Summary of Public Rights**

These rules are a written summary of the public's rights to attend meetings and to inspect and copy documents.

## **10 Exclusion of Access by the Public to Meetings**

### **10.1 Confidential Information – Requirement to Exclude Public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt Information – Discretion to Exclude Public

The public may be excluded from a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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

10.3 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories (subject to any condition):

Category	Qualification
1. Information relating to any individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information  Information falling within paragraph 3 is not exempt information by virtue of that

Category	Qualification
	paragraph if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Information falling within any of paragraphs 1 to 7 is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Information falling within any of paragraphs 1 to 7 is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11 Exclusion of Access by the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to the whole or any part of a report which in his or her opinion relates to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports or parts of reports will be marked “Not for Publication” together with the category of information likely to be disclosed.

## **12 Application of Rules to the Cabinet**

Rules 13 – 23 apply to the Cabinet (including any Cabinet Sub-Committees or Panels and any Cabinet joint committees or sub-committees). If the Cabinet meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A key decision is defined in Article 13 of the Constitution.

If the Cabinet meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 clear days of the public notice of the decision to be taken, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 13 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief Councillors.

## **13 Procedure before taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice has been published in connection with the matter in question (This may be by its inclusion on the Cabinet Work Programme and Forward Plan); This notice will set out:-
  - the matter in respect of which a decision is to be made;
  - where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of its membership;
  - the date on which, or period during which, the decision is to be



- taken;
  - a list of documents submitted to the decision taker for consideration in relation to the matter and details of how to inspect copies of these documents;
  - a note that other documents relevant to the decision may be submitted to the decision-maker and details how to inspect copies of these documents;
- (b) at least 28 clear days have elapsed since the publication of the notice / Cabinet Work Programme and Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet (or its committees), notice of the meeting has been given in accordance with Rule 4 (Notices of Meetings).

## **14 The Cabinet Work Programme and Forward Plan**

### **14.1 Period of Cabinet Work Programme and Forward Plan**

A Cabinet Work Programme and Forward Plan will normally be prepared by the Leader of the Council to cover a period of twelve months, beginning with the first day of any month. They will be prepared on at least a monthly basis.

### **14.2 Contents of Cabinet Work Programme and Forward Plan**

The Cabinet Work Programme and Forward Plan will contain matters that the Leader of the Council has reason to believe will be subject of a key decision and any decision that is to be considered in private to be taken by the Cabinet, (or a committee of the Cabinet, or individual members of the Cabinet), officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far 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, his/her portfolio, 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, and the date of the notice and or of its inclusion on the Cabinet Work Programme and Forward Plan;
- (d) 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

- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (f) The address and /or website details of where the documents are available
- (g) A statement that other documents may be submitted to the decision maker
- (h) The procedure for obtaining access to additional documents

The Cabinet Work Programme and Forward Plan must be published at least 28 clear days before any key decision or item to be considered in private is considered by the Cabinet.

Exempt information need not be included in a Cabinet Work Programme /Forward Plan and confidential information cannot be included.

## **15 General Exception**

If a matter that is likely to be a key decision (as defined in Article 13 of the Constitution) has not been included in the Cabinet Work Programme and Forward Plan and/or the 28 clear days' notice has not been given , then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Cabinet Work Programme and Forward Plan/ 28 clear days' notice given;
- (b) the Monitoring Officer has served notice on the Chair of the Overview and Scrutiny Committee or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on its website; and
- (d) at least five clear days have elapsed since the Monitoring Officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## 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 taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the Overview and Scrutiny Committee, or if the chair is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

## 17 Report to Council

### 17.1 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a key decision (as defined in Article 13 of the Council's Constitution) has been taken which was not:

- (a) the subject of the required 28 days' notice period or included in the Cabinet Work Programme and Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Mayor/Deputy Mayor 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 Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by (the Chair or any 4 members). Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### 17.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Overview and 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 is of the opinion that it was not a key decision the reasons for that opinion.

### 17.3 Reports on Special Urgency decisions

In any event, reports will be made to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding cycle of meetings. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. This may be undertaken by way of the minutes of the Cabinet or by the Notice of Decision if by an individual Cabinet Member. The Leader will make an annual report to Council on all urgent key decisions that have been taken during that period.

## **18 Record of Decisions made at meetings**

After any meeting of the Cabinet or decision-making body, whether held in public or private, the Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record (or minute) will refer to the reasons for each decision and any alternative options considered and rejected at that meeting either directly or by reference to the report. It will also include a record of any conflict of interest declared by a Cabinet Member that relates to the decision and a note of any dispensation granted by the Head of Paid Service in respect of any declared conflict of interest. This will be available on the Council's website.

## **19 Cabinet Meetings Relating to Matters that are not Key Decisions**

Meetings where the Cabinet will make decisions relating to matters that are not key decisions must be held in public except to the extent that the public are excluded under Rule 10.

## **20 Attendance at Private Meetings of the Cabinet**

- (a) All Councillors will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.
- (b) All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

## **21 Decision by Individual Members of the Cabinet (Where delegated powers have been given to Individual Members)**

These need not be exercised in public but must only be exercised having taken into account a report prepared by the relevant Officer, known as a Cabinet Member Decision Note and subject to any notice being given as required under Rule 4. Cabinet Member Decision Notes will be published on the Council's website except where the report contains information that is excluded under Rule 10.

#### 21.1 Reports intended to be taken into account

Where an individual Cabinet Member receives a report that he/she intends to take into account in making any delegated decision, then he/she will not make the decision until at least five clear days after receipt of that report and a copy published on the Council's website except where the report contains information that is excluded under Rule 10.

#### 21.2 Provision of copies of reports to Overview and Scrutiny Committee

- (a) Subject to (b) below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and any cabinet committees and which contains material relating to:
  - (i) any business transacted at a public or private meeting of that committee; or
  - (ii) any decision taken under delegated powers.
- (b) Limit on rights - The Overview and Scrutiny Committee will not be entitled to:
  - (i) any part of a document which contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
  - (ii) the advice of a political advisor or political assistant.
- (c) Requests for documents by the Overview and Scrutiny Committee must be sent in writing to the Monitoring Officer at the Civic Offices and the requested documents will be supplied no later than ten clear days after the request has been received.

#### 21.3 Consultation

Cabinet Members should only exercise delegated powers following consultation with Shadow Group Spokespersons, and Ward Councillors where appropriate. This consultation should be by way of circulation of a Cabinet Member Decision Note, which will specify when comments should be

received in order that they can be taken into account by the Cabinet Member when making the decision.

#### 21.4 Record of Individual Decisions

(a) As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, he/she will prepare, or instruct the Monitoring Officer to prepare, a record of the decision.

This will include

- a record of the decision including the date it was made;
- a record of the reasons for the decision;
- details of any alternative options considered and rejected by the decision-maker at the meeting at which the decision was made;
- a record of any conflict of interest declared by any executive member consulted by the member which relates to the decision; and
- in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

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 exempt or confidential information or advice from a political assistant.

(b) A decision by a Cabinet Member should be published to all Councillors by way of the Members Bulletin and by way of the Council's Website. The decision may not be implemented until such time that a five-day 'Call-in' period has expired which date shall be specified in the Bulletin and which date shall be calculated from the publication date.

## **22 Additional Rights of Access to documents for Members**

### 22.1 Inspection of Documents

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its sub / joint-committees and contains material relating to any business to be transacted at a public meeting at least five clear days before that meeting, unless either (a) or (b) below applies:

(a) where the meeting has been convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

- (b) where an item is added to the agenda at shorter notice, such a document must be available for inspection when the item is added to the agenda.

## 22.2 Material relating to Previous Business

All Councillors and non-elected members of any committee will be entitled to inspect any document which is in the possession or under the control of the Cabinet (or its committees) and contains material relating to any business previously transacted at a private meeting or any executive decision made by an individual member or officer in accordance with executive arrangements, within 24 hours of the meeting or decision being made, unless either (a), (b) or (c) below applies:-

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information
- (b) It contains information falling within paragraph 3 of the categories of exempt information which relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser.

## 22.3 Nature of rights

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

# 23 **Additional rights of access to documents for members of The Overview and Scrutiny Committee**

## 23.1 Rights to copies

Subject to Rule 23.2 below, The Overview and Scrutiny Committee (including its Sub-Committees and Task groups) will be entitled to copies of any document which is in the possession or control of the Cabinet, [or its committees] and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet (or its committees); or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) any decision that has been made by an officer of the authority in accordance with executive arrangements

and such document must be provided as soon as reasonably practicable and in any case within 10 clear days of the request being received by the Monitoring Officer.

### 23.2 Limit on Rights

The Overview and Scrutiny Committee (including its Sub-Committees and Task Groups) will not be entitled to:

- (a) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (b) the advice of a political advisor or political assistant.

and where a decision has been made that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document then the Committee must be provided with a written statement setting out the reasons for that decision.

Latest Version: July 2023



# **Budget and Policy Framework Procedure Rules**

**1. The Framework for Executive Decisions**

**2. Process for Developing the Framework**

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

**4. Urgent Decisions Outside the Budget or Policy Framework**

**5. Virement**

**6. In-Year Changes to Policy Framework**

**7. Call-In Decisions Outside the Budget or Policy Framework**

**8. Objections by the Council to Key Plans and Strategies Proposed by the Cabinet**

## **1 The Framework for Executive Decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework. Once a Budget or a Policy Framework 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 Policy Framework shall be developed is:

- (a) At least 2 months before the Budget and Policy Framework needs to be adopted, the Cabinet will publish initial proposals for the Budget and Policy Framework, having first taken into account the views of local stakeholders as appropriate and in a manner suitable to the matters under consideration. The Cabinet will have regard to the outcome of any prior representations made by the Overview and Scrutiny Committee, the Policy Development Committees, and the outcome of consultations undertaken as part of the Council's strategic review process in formulating its initial proposals. Details of the Cabinet's consultation process shall be referred to in its initial proposals report. Any other representations made to the Cabinet, shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee or a Policy Development Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- (b) The Cabinet's initial proposals shall be referred to the Overview and Scrutiny Committee and the relevant Policy Development Committee(s) for further advice and consideration. The proposals will be referred by sending a copy to the Monitoring Officer who will forward them to the Chair of the Committees. If there is no such chair, a copy must be sent to every member of the Committees. The Overview and Scrutiny Committee and relevant Policy Development Committee(s) may canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Cabinet on behalf of the Council. The Overview and Scrutiny Committee and relevant Policy Development Committee(s) shall report to the Cabinet on the outcome of its deliberations. The Committees shall have not less than four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny

Committee and the relevant Policy Development Committee of the time for response when the proposals are referred to it.

- (c) Having considered any report of the Overview and Scrutiny Committee, the relevant Policy Development Committee(s), the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee and Policy Development Committee(s).
- (d) The Council will consider the proposals of the Cabinet and 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 Overview and Scrutiny Committee and relevant Policy Development Committee(s).
- (e) The Council's decision will be publicised and a copy shall be given to the Leader of the Council. The Council's decision will become effective on the expiry of at least five clear days after the publication of the decision, unless the Leader of the Council objects to it in that period.
- (f) If the Leader of the Council objects to the decision of the Council, he/she shall give written notice to the Monitoring Officer to that effect as soon as possible prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Monitoring Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within ten clear days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection that shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.
- (i) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

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

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, individual members of the Cabinet and any officers, other Council bodies or joint arrangements discharging executive functions may only take decisions that are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, individual members of the Cabinet and any officers, other Council bodies or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to, or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the Budget and Policy Framework) shall apply.

### **4 Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Cabinet, an individual member of the Cabinet or officers, other Council bodies or joint arrangements discharging executive functions may take a decision that is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the full Council (or Special Committee); and
  - ii) if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee, the consent of the Mayor and in

the absence of both the Deputy Mayor will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5 Virement**

- (a) The service areas set out in the Council's Budget Book shall be the budget heads set by the Council. The Council may approve, on the recommendation of the Cabinet, variations to the budget heads or the transfer of approved resources between budget heads in pursuit of policy objectives.
- (b) The Chief Executive, Corporate Directors, Directors and Heads of Service, in consultation with Cabinet Members where appropriate, may transfer resources between budget heads provided that this does not give rise to a change in approved Council policy. Where such a change does affect approved policy, then the approval of the Cabinet will be required (subject to the provisions controlling urgent decisions).
- (c) Any significant variations from approved budgets that are not in themselves a result of deviation from approved policy will be reported to the Cabinet as part of the periodic in-year expenditure monitoring process.
- (d) The Cabinet may authorise allocations from the Council's general reserves to supplement existing budgets or in pursuit of approved policy objectives subject to a report to the following meeting of the Council in respect of the latter.

## **6 In-year Changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet (if any), an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy that make up the policy framework may be made by those bodies or individuals except those changes:

- (a) that will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

- (b) necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- (d) that relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

## **7 Call-in Decisions Outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or, if made, would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance officer.
- (b) In respect of functions that 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 / Chief Finance 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 Overview and Scrutiny Committee if the Monitoring Officer or Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision is 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 the policy framework or contrary to, or not wholly in accordance with, the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten clear days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the

- Council be minuted and circulated to all Councillors in the normal way; or
- ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## **8 Objections by the Council to Key Plans and Strategies proposed by the Cabinet**

- (a) Where the Council has any objection to a draft key plan or strategy, falling within Article 4.01 of the Constitution, proposed by the Cabinet then before amending, approving or adopting (with or without modifications) it must inform the Leader of the Council of any such objection and must give to him/her instructions regarding the Cabinet to reconsider in the light of those objections the draft plan or strategy submitted to it.
- (b) In giving such instructions the Council must specify a period of at least five clear days following receipt of these instructions by the Leader of the Council within which the Leader may: -
  - (i) submit to Council a revised draft plan or strategy as amended by Cabinet with reason for such amendments; 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.
- (c) When the period specified by the Council referred to in (b) above has expired the Council must when amending/approving or adopting (with or without modification) the draft plan or strategy take into account any amendments made by the Cabinet together with reasons, for those amendments, and disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for these disagreements of which the Council were notified by the Leader within the period specified.

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# Executive (Cabinet) Procedure Rules

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# **1 How Does the Cabinet Work?**

## **1.1 Who May Make Executive Decisions?**

The arrangements for the discharge of Cabinet or “executive” functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader of the Council may decide how they are to be exercised. In either case, the arrangements or the Leader of the Council may provide 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;
- v) joint arrangements; or
- vi) another local authority.

## **1.2 Delegation by the Leader**

As soon as practicable after being elected to the position, the Leader of the Council will circulate to all members and the Monitoring Officer a written record of delegations made by her/him. The document circulated by the Leader, and published along with the Constitution on the Council’s Website ([www.swindon.gov.uk](http://www.swindon.gov.uk)) will contain the following information about executive functions in relation to the coming year:

- i) the names and wards of the people appointed to the Cabinet and their individual portfolios;
- ii) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such Cabinet committees as the Leader / Cabinet appoints with delegated authority and the names of Cabinet members appointed to them;
- iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and

- v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub-Delegation of Executive Functions**

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, that body or person may delegate the exercise of that function further by means of joint arrangements or to an officer.
- (b) Unless the Council directs otherwise and the issue is not one reserved by legislation to the executive, 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) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **1.4 The Council's Scheme of Delegations and Executive Functions**

- (a) Subject to (b) below, the Council's scheme of delegations will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required and set out in the provisions of the Council's Constitution.
- (b) The Leader of the Council is able to decide to delegate executive functions. He/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring 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, committee or the Cabinet as a whole. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader and the changes will also be published on the Council's Website.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

- (d) Where delegated business must be transacted (through a Cabinet Member Decision Note, a Cabinet Member Briefing Note or an Officer Decision Note) and the relevant Cabinet Member is not available, the Leader will have power to make the decision. This shall not require the publication of an updated scheme of delegations as set out in (c) above.

#### **1.5 Conflicts of Interest**

- (a) Where the Leader of the Council has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct that forms part of the Council's Constitution.
- (b) If any member of the Cabinet has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct.

#### **1.6 Executive Meetings – When and Where?**

The Cabinet will meet at least 6 times per year at times to 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.

#### **1.7 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one quarter of the total number of members of the Cabinet (including the Leader or Deputy Leader / Vice-Chair of the Cabinet), or 3 (including the Leader or Deputy Leader or the member appointed by the Leader to preside in his/her absence), whichever is the larger.

#### **1.8 How are Decisions to be taken by the Cabinet?**

- (a) Executive decisions that have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules set out in 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.

## 1.9 **How are Decisions to be taken by Cabinet members?**

Executive decisions which have been delegated to Cabinet members need not be exercised in public but must only be exercised in accordance with the procedure set out in the Access to Information Procedure Rules and the Executive (Cabinet) Procedure Rules.

## 2 **How Are Cabinet Meetings Conducted?**

### 2.1 **Who Presides?**

If the Leader of the Council is present he/she will preside. In his/her absence, then the Deputy Leader of the Council / Vice-Chair of the Cabinet or a Cabinet member appointed to do so by the Leader shall preside.

### 2.2 **Who may Attend?**

Meetings of the Cabinet will be open to the public, subject to the Access to Information Rules set out in the Constitution.

### 2.3 **What Business?**

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

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

### 2.4 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview

and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and shall have regard to the Council's Consultation Policy.

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

The Leader of the Council will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Monitoring Officer will comply with the Leader's requests in this respect.

Any member of the Council may ask the Leader of the Council to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be up to one such item per Cabinet meeting.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in accordance with 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 person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

Latest Version: July 2023

# Rules of Procedure and Terms of Reference

## The Scrutiny Committee

### The Scrutiny Committee

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### General Arrangements for the Scrutiny Committee

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## **Membership**

10 Councillors or such number as may be determined from time to time by the Council, or substitutes nominated by the appropriate political group (substitutes must not be members of the Cabinet) and such other non-voting co-opted members as may be agreed by the Committee.

The Scrutiny Committee will normally be chaired by a Councillor who is not a member of the largest political group on the Council.

## **Terms of reference**

To meet at regular intervals to review the policies, process and implications of Cabinet, Cabinet Member, Locality Panel and Officer decision making and the way in which Cabinet and Cabinet Member decisions are made,

- To consider requests for “Call-in” as defined in the Council’s “Call-in” Procedure ( Scrutiny Committee Procedure Rules, Part 4 of the Constitution),
- To refer decisions back to Cabinet (or the decision maker) for reconsideration. It may do this once for any individual decision, after which if there is no agreement the decision will be referred to the full Council for determination,
- To refer Cabinet, Cabinet Member and Locality Panel decisions to the Scrutiny Committee for investigation without delaying the implementation of the decision concerned,
- To receive a report by the Leader of the Council at its first meeting after each Annual Council Meeting (or at such a meeting as is agreed by the Chair of the Committee and the Leader of the Council) on the service issues for the year ahead, the Leader of the Council’s priorities for the coming year and on the Council’s performance in the previous year,
- To oversee the arrangements for Scrutiny within the Council, including determining (i) a system to ensure that referrals from the Scrutiny Committee to the Cabinet, either by way of report or for reconsideration are managed efficiently and do not exceed any limits set out in the Council’s Constitution, and (ii) in the event of reports to the Cabinet exceeding any limits in this Constitution or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet to make decisions about the priority of referrals made,
- To carry out any investigation into the business and functions of the Council and to call in any Cabinet Member or senior officer of the Council so that they can offer advice, support or answer any question that will assist the Committee in carrying out its functions,



- To carry out an external scrutiny function, particularly in relation to corporate issues
- To fulfil all the functions of a scrutiny committee as they relate to –
  - The review, scrutiny and development of policy recommendations,
  - The management of performance,
  - The monitoring of progress towards delivering relevant strategies and corporate priorities,
  - The formulation of advice for the Cabinet, Council and other partners and stakeholders, and
  - Strategies to reduce or prevent Crime and Disorder.
  - To have specific responsibility for good governance and the operation of Law and Democratic Services, and the Budget Scrutiny function.

In accordance with Section 19 of The Police and Justice Act 2006, the Scrutiny Committee will act as the Council’s “Crime and Disorder Committee” in terms of reviewing and scrutinising decisions made, or other actions taken, in connection with the discharge by the responsible authorities of the Crime and Disorder function.

In accordance with Section 7 of the Health and Social Care Act 2001 (as amended), the Scrutiny Committee will undertake scrutiny of local health service providers.

**To fulfil all the functions of a scrutiny committee as they relate to, but not limited to, the following –**

- The performance of services seeking to deliver healthy communities towards agreed local and national performance indicators,
- Health, health commissioning and service delivery,
- Public Health, Health promotion and the work of the Health and Wellbeing Board,
- Health Integration and collaborative working and commissioning with Health agencies and providers and General Practitioners.
- the performance of services for children towards agreed local and national Performance Indicators,
- the quality of provision and effectiveness of Local Authority strategies to raise standards of education within Swindon,
- specialist social services and integrated social services for children and young people in Swindon,
- the delivery of services to children and young people in Swindon generally.
- In addition, as these relate to Children and Young People:
- the performance of services seeking to deliver healthy communities towards agreed local and national performance indicators,
- Health, health commissioning and service delivery,

- Public Health, Health promotion and the work of the Health and Wellbeing Board, and
- Health Integration and collaborative working and commissioning with Health agencies and providers and General Practitioners.
- Reducing Domestic Violence and Abuse
- Strategic issues around Licensing
- the performance of services seeking to deliver sustainable communities against agreed local and national performance indicators,
- StreetSmart services,
- Transport and strategic transport planning,
- Flood risks,
- Environment and sustainability,
- Waste and Recycling,
- Library services,
- Business Support.
- Parishes and Devolution
- Community and Neighbourhoods
- Localities
- Volunteering
- The performance of services promoting cultural and economic development and enterprise and regeneration of the Borough against agreed local and national performance indicators,
- Regeneration,
- Economic and Cultural development,
- Strategy and Research
- The Swindon and Wiltshire Local Enterprise Partnership (LEP).
- Car parking services
- Spatial and Strategic Planning
- Superfast Broadband
- Wichelstowe
- The Borough's Property portfolio
- The Council's Revenue and Capital Budget,
- The Medium Term Financial Strategy,
- Strategic Projects,
- Leisure
- Corporate Customer Services

## **1. General Arrangements for the Scrutiny Committee**

- (a) The Council will have a Scrutiny Committee that will perform all the overview and scrutiny functions on behalf of the Council. They will consist of such members of the Council as may be determined from time to time by the Council, and in respect of Education issues no more than two church and two or more parent governor representatives, and for all other issues they may also appoint such other non-voting co-opted members as they feel appropriate.
- (b) The terms of reference of the Scrutiny Committee will include:
  - i) the performance of all overview and scrutiny functions on behalf of the Council;
  - ii) the appointment of such Sub-Committees and task groups as are considered appropriate to fulfil its functions;
  - iii) to carry out any investigation into the business and functions of the Council falling within the remit of the Committee and to call in any Cabinet Member or senior officer of the Council so that they can offer advice, support or answer any question that will assist the Committee in carrying out its functions; and
  - iv) to put in place a system to ensure that referrals from Committees to the Cabinet, either by way of report or for reconsideration, are managed efficiently and do not exceed any limits set out in the Council's Constitution.

## **2. Who may sit on the Scrutiny Committee, its Sub-Committees and Task Groups**

All councillors, except members of the Cabinet, may be members of the Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved. The Chair of the appointing Committee shall be an ex-officio member of the Sub-Committee or Task Group (without voting rights). In the absence of the Chair, the Vice-Chair shall take that place.

## **3. Co-optees**

The Scrutiny Committee, a Sub-Committee or a Task Group shall be entitled to appoint a number of people as non-voting co-optees.

## **4. Education Representatives**

The Scrutiny Committee, a Sub-Committee/Task Group dealing with

education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Catholic diocese representative;
- (c) parent governor representatives (between 2 and 5); and
- (d) Representatives of other faiths or denominations (where appropriate).

These representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### **5. Meetings of the Scrutiny Committee**

Meetings of the Scrutiny Committee will be held in accordance with the 'Timetable of Meetings' agreed by the Council each year. In addition, extraordinary meetings may be called from time to time and when appropriate. A Scrutiny Committee meeting may be called by the chair of the Committee, by any 5 members of the Committee or by the Monitoring officer if he/she considers it necessary or appropriate.

#### **6. Quorum**

The quorum for the Scrutiny Committee and its Task groups shall be as set out in the Council's Standing Orders that form part of this Constitution.

#### **7. Who Chairs Scrutiny Committee Meetings?**

The (Annual) Council or Special Committee will usually make appointments of the Chair and Vice Chair to the Scrutiny Committee.

The Scrutiny Committee will normally be chaired by a Councillor who is not a member of the largest political group on the Council.

#### **8. Work Programme**

The Scrutiny Committee will be responsible for setting its own work programme and in doing so shall take into account the wishes of members on the Committee who are not members of the group forming the majority of the Cabinet.

#### **9. Agenda Items**

Any member of the Scrutiny Committee or a sub-committee shall be entitled

to give notice to the Monitoring Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of that Committee. On receipt of such a request, the Monitoring Officer will ensure that it is included on the next available agenda of the Scrutiny Committee or sub-committee for consideration.

The Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, and, if it considers it appropriate, the Cabinet, to review particular areas of Council activity. Where it does so, the Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within one month of receiving it or at the first available meeting after that date.

The Scrutiny Committee will also respond to referrals from National Health Service Health Commissioning bodies and to referrals by Healthwatch within the statutory response period as established by Regulation.

#### **10. Councillor Call For Action**

Any member of the Council who is not a member of the Scrutiny Committee may give written notice to the Monitoring Officer that he or she wishes to be included on the agenda of the Scrutiny Committee any local government matter which is relevant to the functions of the Committee and which affects all or part of the member's ward and is not an 'excluded matter' as defined in section 21A of the Local Government Act 2000 (as amended). If the Monitoring Officer receives such a notification, then that item will be included on the first available agenda of the Scrutiny Committee for consideration.

In deciding whether or not to exercise any of its powers, the Committee shall comply with the requirements of section 21A(5) of the Local Government Act 2000 together with any guidance issued by the Secretary of State, the Centre for Governance and Scrutiny (formerly CfPS) or the Local Government Association (LGA). Existing best practice guidance states that the Councillor Call for Action is about helping councillors to resolve issues and problems on behalf of their residents. It should not be regarded merely as a scrutiny process. It should only be used as a means of last resort after other avenues have been exhausted.

#### **11. Budget and Policy Review**

- (a) The role of the Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure that forms part of this Constitution.

- (b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, the Scrutiny Committee, Sub-Committees or Task Groups may make proposals to the Cabinet in so far as these relate to matters within their terms of reference.
- (c) The Scrutiny Committee, Sub-Committees and Task Groups may hold enquiries and investigations and may appoint advisers and assessors to assist them in this process. They may go on site visits, and subject to the identification and approval of the necessary funding, 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 the Scrutiny Committee**

- (a) Once it has formed recommendations, the Scrutiny Committee, Sub-Committee / Task Group will prepare a formal report and submit it for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- (b) If the Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Scrutiny Committee within one month or at its first meeting after the time it has been submitted (via the Monitoring Officer).
- (d) The Scrutiny Committee may also make formal reports and recommendations to local National Health Service bodies, and where appropriate, in accordance with statutory provisions, to the Secretary of State.

## **13. Making sure that Scrutiny reports are considered by the Cabinet**

- (a) Where appropriate, the agenda for Cabinet shall include an item entitled 'References' (from the Scrutiny Committee) and other appropriate bodies). The reports of a Committee referred to the Cabinet shall be included at an appropriate point in the agenda (unless they have been considered in the context of deliberations on a substantive item on the agenda) as soon as practicable following the

Committee completing its report / recommendations.

- (b) Once the Scrutiny Committee has completed its deliberations on any matter, it will forward a copy of its final report to the Monitoring Officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Monitoring Officer refers the matter to Council, he/she will also serve a copy on the Leader of the Council with notice that the matter is to be referred to Council. The Cabinet will respond to the Scrutiny report as soon as practicable, and the Council shall not consider it until the Cabinet has responded. When the Council does meet to consider any referral from a Committee on a matter that would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the relevant Scrutiny Committee proposals.
- (c) Where the Scrutiny Committee (or Sub-Committee / Task Group) prepares a report for consideration by the Cabinet, in relation to a matter where the Leader or the Council has delegated decision making power to another individual member of the Cabinet, then the Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Committee shall serve a copy on the Monitoring Officer. The member with delegated decision-making power must consider the report and respond in writing to the Committee within no more than 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Monitoring Officer and the Leader of the Council. The member will also attend a future meeting of the relevant Committee to present their response.
- (d) If the member with delegated decision-making power does not accept the recommendations of the Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision-making power and responding to the report in writing to the relevant Committee. The Cabinet member to whom the decision-making power has been delegated will respond to the relevant Committee within no more than 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Monitoring Officer and he/she will attend a future meeting to respond.
- (e) Only two reports in any cycle of meetings may be submitted by the Scrutiny Committee to the Cabinet.
- (f) The Scrutiny Committee will have access to the Cabinet's Work Programme and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed

proposals from a Committee, the Committee will be able to respond in the course of the Cabinet's consultation process in relation to key decisions.

#### **14. Rights of Scrutiny Committee Members to Documents**

- (a) In addition to their rights as councillors, members of the Scrutiny Committee have the additional right to documents and to notice of meetings, as set out in the Council's Access to Information Procedure that forms part of this Constitution and as defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### **15. Members and Officers giving Account**

- (a) The Scrutiny Committee, Sub-Committee or Task Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet or Senior Officer, (Chief Executive, Corporate Directors, Directors and Heads of Service) to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) their performance,and it is the duty of those persons to attend if so required.
- (b) Where any Councillor or officer is required to attend the Scrutiny Committee under this provision, the Chair of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the Councillor or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or officer concerned must be given sufficient notice to allow for preparation of that documentation.



- (c) Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

## **16. Attendance by Others**

The Scrutiny Committee or Sub-Committee / Task Group may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

The Scrutiny Committee may also require officers of local National Health Service bodies, clinical commissioning groups or other relevant health service providers to address it, discuss issues of local concern and/or answer questions.

Further to section 9FF of the Local Government Act 2000 and section 104 of the Local Government and Public Involvement in Health Act 2007 as amended and associated Regulations (e.g. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013), the Scrutiny Committee may also require specified partner bodies to provide information to, address, discuss issues of local concern and/or answer questions at the Scrutiny Committee.

Where committees have representatives from partner organisations, it is recommended that the committee chair indicate at the time the agenda is published whether a representative of that body is required.

## **17. Call-in Procedure**

Call-in should only be used in exceptional circumstances. These are when Members of the Scrutiny Committee have evidence that suggest that the Cabinet did not carry out due process in reaching their decision or have failed to fully appreciate the implications of their actions. (See Article 13).

- (a) When a decision is made by the Cabinet, (or an individual member of the Cabinet or a committee of the Cabinet) or a key decision is made by an officer with delegated authority from the Cabinet or under joint arrangements with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available (at least in draft form) from the Monitoring Officer at the Council's Civic Offices, normally within 2 working days of being made.

- (b) Where the Cabinet or Cabinet Member makes decisions, a notice of the decisions (the draft Minutes of the Cabinet Meeting will act as the decision notice for that meeting) will be published (the date of the meeting for Cabinet decisions) that will bear the date on which it is published and will specify that the decisions will come into force and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.
- (c) During that period, the Monitoring Officer shall also call-in a decision for scrutiny by the Scrutiny Committee if so requested by any 4 members, from at least 2 political groups, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Scrutiny Committee on such date as he/she may determine, where possible after consultation with the chair of the Scrutiny Committee and the decision may not be implemented prior to the Scrutiny Committee meeting.
- (d) All decisions of the Cabinet will go before the Scrutiny Committee. The Committee may call-in any item where Members of the Committee have evidence that suggests that the Cabinet did not carry out due process in reaching their decision, or have failed to appreciate fully the implications of their actions. If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or, after having already made one such referral, refer the matter to full Council. If referred to the decision-maker they shall then reconsider it within a further 5 working days (or at their next meeting), amending the decision or not, before adopting a final decision.
- (e) If, following an objection to the decision, 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 person or body, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- (f) If the matter was referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. The decision of the Full Council will be final.

## **18. Exceptions**

- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are placed on its use. These are:

- i) that a Scrutiny Committee may normally only call-in four decisions every six weeks;
- ii) only decisions involving significant spending or reductions in service may be called in;
- iii) once a member has signed a request for call-in under paragraph 23 (call-in) above, he/she may not do so again until a period of one month has expired.

## **19. Call-in and Urgency**

- (h) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or Cabinet Member 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 interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency. This may be by way of the minutes of the meeting concerned or published Decision Notice.
- (i) 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'**

When considering any matter in respect of which a member of the Scrutiny Committee (or Sub-Committee / Task Group) is subject to a 'Party Whip,' the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **21. Procedure at Scrutiny Committee meetings**

- (a) The Scrutiny Committees and Task Groups shall consider the following business:

- i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) public question time
  - iv) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - v) responses of the Cabinet or Cabinet Member to reports of the Committee; and
  - vi) the business otherwise set out on the agenda for the meeting, including petitions referred to the Scrutiny Committee in accordance with the Council's Petitions Scheme, as set out in Part 4 of the Constitution.
- (b) Where the Scrutiny Committee or Sub-Committee / Task Group conducts investigations, the Committee may also ask people to attend to give evidence at 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 or Sub-Committee / Task Group be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee or Sub-Committee / Task Group 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. Hearings of witnesses may be held in private if required for good reason.
- (c) Following an investigation or review, the Committee or Task Group shall prepare a report, for submission to the Cabinet or Council as appropriate, and shall normally make its report and findings public.

## **22. Appointment of Sub-Committees and Task Groups**

The appointment of Sub-Committees and Task Groups will normally be undertaken by the Scrutiny Committee. However, in exceptional circumstances where time constraints prohibit a meeting of the full Committee, the Monitoring Officer in consultation with the Chair and Vice-Chair and political group spokespersons on the Committee will be authorised to establish / agree the composition of any Sub-Committees or Task Groups.

### **23. Joint Scrutiny Committees**

Part 4, Regulation 7 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 provides that "Two or more local authorities may appoint a joint committee (a "joint scrutiny committee") of those authorities and arrange for relevant functions in relation to any (or all) of those authorities to be exercised by the joint committee subject to such terms and conditions as the authorities may consider appropriate."

The Council has agreed that where relevant and where viewed appropriate by the Scrutiny Committee, the Scrutiny Committee may establish, or agree to be represented on, a joint scrutiny committee, with one or more other local authorities, for the purpose of the joint review and scrutiny of issues and services relevant to its remit.

### **24. Petitions**

Petitions received by the Council and referred to the Scrutiny Committee will be considered in accordance with the Council Petitions Scheme as set out in Part 4 to the Constitution.

### **25. Tenants Scrutiny**

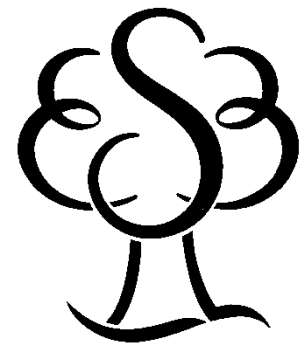
A Tenants Scrutiny Panel or body will be established comprising representatives of tenant bodies and will perform a similar function in relation to decisions affecting the Council's Housing Revenue Account as that undertaken by the Council's Scrutiny bodies.

Latest Version May 2023

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# Financial Procedure Rules

## (Financial Regulations)



**SWINDON**  
BOROUGH COUNCIL

**Reviewed May 2019**

# Financial Regulations

**May 2019**



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# Status of Financial Regulations

- 1.1 Financial regulations provide the framework for managing the authority's financial affairs. They should be read in conjunction with the Council's Procurement Policy which incorporates Contract Regulations. They apply to every member and officer of the authority and anyone acting on its behalf, although separate Financial Regulations incorporating the same principles of financial management apply to schools operating under the scheme of local management. Failure by an Officer of the Council to comply with these Financial Regulations may result in formal disciplinary action being taken against the Officer concerned.
- 1.2 The regulations identify the financial responsibilities of the full Council, Executive (Cabinet) and Overview and Scrutiny members, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and other Senior Officers (see the Schedule of Officer Responsibilities). Executive (Cabinet) members and Senior Officers should maintain a written record where decision-making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated, references to the Senior Officer in the regulations should be read as referring to the officer exercising the delegated authority (but note the position in relation to schools set out above).
- 1.3 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4 The Chief Finance Officer is responsible for maintaining a continuous review of the financial regulations and submitting any material additions or changes necessary to the full Council for approval. The Chief Finance Officer will also issue and maintain more detailed notes of guidance and practice notes, as required to supplement these Financial Regulations, with which all Members and staff of the Council shall comply.
- 1.5 The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to the Executive (Cabinet) members.
- 1.6 Senior Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their departments. Where a Senior Officer employs a consultant or external contractor to undertake any function which might otherwise be undertaken by a direct employee of the Council, the individual(s) concerned must act in accordance with these Regulations and must be made aware by the appropriate Senior Officer of this requirement.

- 1.7 The Chief Finance Officer is ultimately responsible for issuing advice and guidance to underpin the financial regulations that Members, Officers and others acting on behalf of the Authority are required to follow. On a day to day basis, support and advice is available from professional Finance staff across the Authority.
- 1.8 The pages within this document are individually numbered and dated for ease of update and amendment.



# Financial Regulations

## **FINANCIAL REGULATION A: FINANCIAL MANAGEMENT**

### **INTRODUCTION**

- 1 Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget. These Financial Regulations are an integral part of the Council's Constitution and are contained within Part 4 of that Constitution that sets out the Council's "Rules of Procedure". Further details on the roles and responsibilities of Members and Officers are provided in the Council's Constitution.

### **THE FULL COUNCIL**

- 2 The full Council is responsible for adopting the authority's Constitution and members' code of conduct and for approving the policy framework and budget within which the Executive (Cabinet) operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its constitution. The full Council is also responsible for monitoring compliance with the agreed policy and related Executive (Cabinet) decisions.
- 3 The full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the constitution.

### **THE EXECUTIVE (CABINET)**

- 4 The Executive (Cabinet) is currently comprised of the Leader and Deputy Leader of the Council and a Cabinet of up to 8 Members. It is responsible for proposing the policy framework and budget to the full Council, and for discharging Executive (Cabinet) functions in accordance with the policy framework and budget.
- 5 Executive (Cabinet) decisions can be delegated to a committee of the Executive (Cabinet), an individual Executive (Cabinet) member, an officer or a joint committee.
- 6 The Executive (Cabinet) is responsible for establishing protocols to ensure that individual Executive (Cabinet) members, or groups of Members comprising any committee, working party or specific task group consult with, and take advice from, relevant officers before taking a decision or making a recommendation within his or her delegated authority. Individual members must take account of legal and financial liabilities and risk management issues that may arise from any decision taken within their delegated authority.

## **COMMITTEES OF THE COUNCIL**

### **Overview and Scrutiny Committee**

- 7 The Overview and Scrutiny Committee will advise the Executive (Cabinet) on policies and strategies of the Council and other relevant bodies within the terms of reference agreed for each commission.
- 8 The Committee is responsible for scrutinising Executive (Cabinet) decisions before or after they have been implemented and for holding the Executive (Cabinet) to account. The Committee is also responsible for reviewing the general policy and service delivery of the authority.

### **Policy Development Committees**

- 9 Three Policy Development Committees will provide a platform dedicated to policy development, review and revision to support the delivery of the Council's priorities and pledges. The Cabinet, the Council, Cabinet Members, or members of a Policy and Development Committee will refer policy initiatives to the relevant Policy Development Committee, which will then undertake detailed developmental work in liaison with the appropriate Cabinet Member.

### **Standards Committee**

- 10 The Standards Committee is established by the full Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors and co-opted Members. In particular, it is responsible for advising the Council on the adoption and revision of the members' code of conduct, and for monitoring the operation of the code. The Standards Committee approves and monitors the Council's anti-fraud strategy and whistleblowing procedures.

### **Audit Committee**

- 11 The Audit Committee is responsible for providing independent assurance to the Council on the effectiveness of the Council's risk management, internal control and its overall assurance framework; the effectiveness of the Council's financial and non-financial performance to the extent that it might affect the internal controls listed above; the performance of the Council's Internal Audit section; the receipt and review of External Audit reports and liaison with external auditors on significant matters identified, the effective scrutiny of the Treasury Management function, and to advise upon and/or review the effectiveness of any other matters referred to the Audit Committee by the Cabinet, the Overview and Scrutiny and Regulatory Committees.

### **Other Regulatory Committees**

- 12 The Council will appoint such regulatory and other committees as are required to discharge specific functions (including appeals and licensing, Officer appointments and planning decisions) and will determine their terms of reference accordingly.

## **THE STATUTORY OFFICERS**

### **Head of Paid Service**

- 13 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. The role of the Head of Paid Service is defined in detail in the Council's Constitution. He or she must report to and provide information for the Executive (Cabinet), the full Council, the Overview and Scrutiny Committee and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions (see below).

### **Monitoring Officer**

- 14 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The role of the Monitoring Officer is defined in detail in the Council's Constitution (Article . The Monitoring Officer (in consultation with the Chief Finance Officer and Head of Paid Service) is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Executive (Cabinet), and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- 15 The Monitoring Officer must ensure that Executive (Cabinet) decisions and the reasons for them are made public. He or she must also ensure that Council members are aware of decisions made by the Executive (Cabinet) and of those made by officers who have delegated Executive (Cabinet) responsibility.
- 16 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision and is responsible for advising the Executive (Cabinet) or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- 17 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **Chief Finance Officer**

- 18 The Chief Finance Officer<sup>1</sup> has statutory duties in relation to the financial administration and stewardship of the authority. The role of the Chief Finance Officer (Director of Finance) is defined in detail in the Council's Constitution. This statutory responsibility cannot be overridden. The statutory duties arise from:

Section 151 of the Local Government Act 1972  
The Local Government Finance Act 1988  
The Local Government and Housing Act 1989  
The Accounts and Audit Regulations 1996.  
The Accounts and Audit (England) Regulations 2015.

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<sup>1</sup> See *A Statement on the Role of the Chief Finance Officer in Local Government (CIFPA 1999)*

19 The Chief Finance Officer is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- contributing to the corporate management of the Authority, in particular through the provision of financial information and advice
- preparing the revenue budget and capital programme
- treasury management
- approving the final design or selection of any computer system likely to have an impact on corporate financial or financial-related systems, including accounting, payments, stock control and income
- ensuring an effective internal Audit function is resourced and maintained.

20 **Section 114** of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Executive (Cabinet) and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- is about to make an unlawful entry in the authority's accounts.
- Section 114 of the 1988 Act also requires:
  - the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
  - the authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

## **SENIOR OFFICERS**

21 For the purposes of these Regulations 'Senior Officers' shall be defined as Chief Executive (Cabinet), Board Directors, Directors, and Heads of Service. They are responsible for the following:

- ensuring that Executive (Cabinet) members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer

- entering into and signing contracts on behalf of the authority in accordance with the Council's Procurement Policy.

22 It is the responsibility of Senior Officers to consult with the Chief Finance Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## **OTHER FINANCIAL ACCOUNTABILITIES**

### **Virement**

23 The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.

24 Senior Officers are responsible for agreeing in-year virements but must not take decisions or transfer resources contrary to current Council policy as represented by the approved budget.

### **Treatment of Year-end Balances**

25 The Executive (Cabinet) is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

### **Accounting Policies**

26 The Chief Finance Officer is responsible for implementing accounting policies which accord with the Accounting Code of Practice (ACOP) and ensuring that they are applied consistently.

### **Accounting Records and Returns**

27 The Chief Finance Officer is responsible for determining the accounting procedures and records for the authority, in accordance with statutory requirements and Best Practice.

### **The Annual Statement of Accounts**

28 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Audit Committee is responsible for approving the annual statement of accounts.

# Appendix to Financial Regulation A

## A1 FINANCIAL MANAGEMENT STANDARDS

### 1.1 *Why Is This Important?*

1.1.1 All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### 1.2 *Key Controls*

1.2.1 The key controls and control objectives for financial management standards are:

- (a) their promotion throughout the authority
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Executive (Cabinet) and full Council.

### 1.3 *Responsibilities of the Chief Finance Officer*

- 1.3.1 To ensure the proper administration of the financial affairs of the authority.
- 1.3.2 To set the financial management standards and to monitor compliance with them.
- 1.3.3 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.3.4 To advise on the key strategic controls necessary to secure sound financial management.
- 1.3.5 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### 1.4 *Responsibilities of Senior Officers*

- 1.4.1 To promote the financial management standards set by the Chief Finance Officer in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Chief Finance Officer.
- 1.4.2 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **A2 MANAGING EXPENDITURE - VIREMENT**

### **2.1 *Why Is This Important?***

2.1.1 The scheme of revenue virement is intended to enable the Executive (Cabinet), Senior Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

### **2.2 *Key Controls***

2.2.1 Key Controls for the scheme of revenue virement are:

- (a) it is administered by the Chief Finance Officer within guidelines set by the full Council. Any variation from this scheme requires the approval of the full Council
- (b) the overall budget is agreed by the Executive (Cabinet) and approved by the full Council. Senior Officers and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved estimates report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis
- (c) virement does not create additional overall budget liability. Senior Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Senior Officers must plan to fund such commitments from within their own budgets.

### **2.3 *Responsibilities of the Chief Finance Officer***

2.3.1 To monitor the exercise of virement by Senior Officers and advise the Executive (Cabinet) of any amendments which may be appropriate over time.

### **2.4 *Responsibilities of Senior Officers***

2.4.1 A Senior Officer may exercise virement on revenue budgets under his or her control subject to the conditions below.

2.4.2 The prior approval of the Executive (Cabinet) is required for any virement, of whatever amount, where it is proposed to:

- vire between budgets of different accountable Executive (Cabinet) members
- vire between budgets managed by different Senior Officers.

- 2.4.3 Virement that is likely to impact on the level of service activity of another Senior Officer should be implemented only after agreement with the relevant Senior Officer.
- 2.4.4 No virement relating to a specific financial year should be made after 31 March in that year.
- 2.4.5 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established
  - (b) the Executive (Cabinet) has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Executive (Cabinet).

### **A3 MANAGING EXPENDITURE - TREATMENT OF YEAR-END BALANCES**

#### **3.1 *Why Is This Important?***

- 3.1.1 Overspends or underspends in relation to the approved revenue budget may occur for a variety of reasons. There is no 'as of right' carry forward of underspends and clear justification must exist prior to consideration by the Executive (Cabinet) of any request.

#### **3.2 *Key Controls***

- 3.2.1 Appropriate accounting procedures are in operation to ensure that carry-forward requests are robustly based.

#### **3.3 *Responsibilities of the Chief Finance Officer***

- 3.3.1 To administer the scheme of carry-forward within the guidelines approved by the full Council.

#### **3.4 *Responsibilities of Senior Officers***

- 3.4.1 To ensure that all over and underspendings are fully investigated and appropriate corrective action identified and implemented.

### **A4 ACCOUNTING POLICIES**

#### **4.1 *Why Is This Important?***

- 4.1.1 The Chief Finance Officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.



## **4.2 Key Controls**

4.2.1 The key controls for accounting policies are:

- (a) systems of internal control are in place that ensure that financial transactions are lawful
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

## **4.3 Responsibilities of the Chief Finance Officer**

4.3.1 To implement appropriate accounting policies which comply with statutory requirements and codes of practice and to 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, and covers such items as:

- accounting standards
- separate accounts for capital and revenue transactions
- the basis on which debtors and creditors at year end are included in the accounts
- provisions and reserves
- fixed assets
- depreciation
- capital charges
- work in progress
- stocks and stores
- deferred charges
- accounting for value added tax
- government grants
- leasing
- pensions
- capital receipts
- redemption of debt
- investments
- overheads

## **4.4 Responsibilities of Senior Officers**

4.4.1 To adhere to the accounting policies and guidelines approved by the Chief Finance Officer.

## **A5 ACCOUNTING RECORDS AND RETURNS**

### **5.1 *Why Is This Important?***

5.1.1 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

### **5.2 *Key Controls***

5.2.1 The key controls for accounting records and returns are:

- (a) all Executive (Cabinet) members, finance staff and budget managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

### **5.3 *Responsibilities of the Chief Finance Officer***

5.3.1 To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Chief Finance Officer must approve the controls to be applied in consultation with the Chief Officer concerned.

5.3.2 To arrange for the compilation of all accounts and accounting records under his or her direction.

5.3.3 To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

5.3.4 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.

5.3.5 To ensure that all claims for funds including grants are made by the due date.

5.3.6 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the full Council to approve the statement of accounts before 30 September.

5.3.7 To ensure the proper retention of financial documents in accordance with legislative requirements.

#### **5.4 Responsibilities of Senior Officers**

5.4.1 To consult and obtain the approval of the Chief Finance Officer before introducing or making any changes to accounting records and procedures.

5.4.2 To consult with the Chief Finance Officer at feasibility study or initial outline specification stage (whichever is the earlier) for any computer system which may have an impact on corporate financial or financial-related systems, including accounting, payments, stock control and income.

5.4.3 To comply with the principles outlined in paragraph 5.3.3 when allocating accounting duties.

5.4.4 To maintain adequate records to provide a management trail (the “audit trail”) leading from the source of income/expenditure through to the accounting statements.

5.4.5 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Chief Finance Officer.

### **A6 THE ANNUAL STATEMENT OF ACCOUNTS**

#### **6.1 Why Is This Important?**

6.1.1 The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit Committee is responsible for approving the statutory annual statement of accounts.

#### **6.2 Key Controls**

6.2.1 The key controls for the annual statement of accounts are:

- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs.
- the authority’s statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP) (CIPFA/LASAAC).

#### **6.3 Responsibilities of the Chief Finance Officer**

6.3.1 To implement appropriate accounting policies and to apply them consistently.

6.3.2 To make judgements and estimates that are reasonable and prudent.

6.3.3 To comply with the SORP.

6.3.4 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March 20xx.

6.3.5 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

**6.4 *Responsibilities of Senior Officers***

6.4.1 To comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with information when required.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING AND BUDGET MANAGEMENT**

### **POLICY FRAMEWORK**

- 1 The full Council is responsible for approving the policy framework (including all statutory plans and strategies) and budget which will be proposed by the Executive (Cabinet).
- 2 The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Monitoring Officer.
- 3 The Executive (Cabinet) is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

### **BUDGETING**

#### **Budget Format**

- 4 The general format of the budget will be approved by the full Council and proposed by the Executive (Cabinet) on the advice of the Chief Finance Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

#### **Revenue Budget Preparation**

- 5 The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a medium term basis for consideration by the Executive (Cabinet), before submission to the full Council. The full Council may amend the budget or ask the Executive (Cabinet) to reconsider it before approving it.
- 6 It is the responsibility of Senior Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Executive (Cabinet) and that these estimates are prepared in line with guidance issued by the Executive (Cabinet).

#### **Budget Monitoring and Control**

- 7 The Chief Finance Officer is responsible for ensuring the systems are in place to provide appropriate financial information to enable all revenue and capital budgets to be monitored effectively. He or she must report to the Executive (Cabinet) on the overall position on a regular basis.
- 8 It is the responsibility of Senior Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### **Resource Allocation**

- 9 The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

### **Preparation of the Capital Programme**

- 10 The Chief Finance Officer is responsible for ensuring that a capital programme is prepared on an annual basis and a general capital plan on a medium term basis for consideration by the Executive (Cabinet) before submission to the full Council.

### **Guidelines**

- 11 Guidelines on budget preparation are issued to members and Senior Officers by the Chief Finance Officer taking into account the policy framework determined by the Executive (Cabinet).

### **MAINTENANCE OF RESERVES**

- 12 It is the responsibility of the Chief Finance Officer to advise the Executive (Cabinet), the Audit Committee and/or the full Council on prudent levels of reserves for the authority.

## Appendix to Financial Regulation B

### **B1 PERFORMANCE PLANS**

#### **1.1 *Why Is This Important?***

1.1.1 Each local authority has a statutory responsibility to publish various performance plans, including crime reduction strategies, community care plans, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. Such plans are a key element in the authority's programme of engaging with the public. External audit is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of such statutory Plans.

#### **1.2 *Key Controls***

1.2.1 The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent
- (b) to produce plans in accordance with statutory requirements
- (c) to meet the timetables set
- (d) to ensure that all performance information is accurate, complete and up to date
- (e) to provide improvement targets which are meaningful, realistic and challenging.

#### **1.3 *Responsibilities of the Chief Finance Officer***

1.3.1 To ensure the provision of the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

1.3.2 To contribute to the development of corporate and service targets and objectives and performance information.

#### **1.4 *Responsibilities of Senior Officers***

1.4.1 To contribute to the development of performance plans in line with statutory requirements.

1.4.2 To contribute to the development of corporate and service targets and objectives and performance information.

1.4.3 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

## **B2 BUDGETING - FORMAT OF THE BUDGET**

### **2.1 *Why Is This Important?***

2.1.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how any rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

### **2.2 *Key Controls***

2.2.1 The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's *Best Value Accounting – Code of Practice*
- (c) the format reflects the accountabilities for services.

### **2.3 *Responsibilities of the Chief Finance Officer***

2.3.1 To advise the Executive (Cabinet) on the format of the budget that is approved by the full Council.

### **2.4 *Responsibilities of Senior Officers***

2.4.1 To comply with accounting guidance provided by the Chief Finance Officer.

## **B3 REVENUE BUDGET PREPARATION, MONITORING AND CONTROL**

### **3.1 *Why Is This Important?***

3.1.1 Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that holds designated managers accountable for defined elements of the budget.

3.1.2 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

3.1.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Chief Officer's scheme of delegation.



### **3.2 Key Controls**

3.2.1 The key controls for managing and controlling the revenue budget are:

- (a) budget managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated budget manager for each cost centre heading
- (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) budget managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
- (g) Budget Managers must not charge goods and services against the budgets of other managers without obtaining prior agreement.

### **3.3 Responsibilities of the Chief Finance Officer**

3.3.1 To establish an appropriate framework of budgetary management and control that ensures that:

- (a) budget management is exercised within annual cash limits unless the full Council agrees otherwise
- (b) each Senior Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- (c) each cost centre has a single named manager, determined by the relevant Senior Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure
- (d) significant variances from approved budgets are investigated and reported by budget managers regularly.

3.3.2 To administer the authority's scheme of virement.

3.3.3 To submit reports to the Executive (Cabinet) and to the full Council, in consultation with the relevant Senior Officer, where a Senior Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.

3.3.4 To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

### **3.4 Responsibilities of Senior Officers**

3.4.1 To maintain budgetary control within their departments and to ensure that all income and expenditure is properly recorded and accounted for.

- 3.4.2 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Chief Officer (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 3.4.3 To ensure that budget managers do not charge goods and services against the budgets of other managers without obtaining prior agreement.
- 3.4.4 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 3.4.5 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 3.4.6 To prepare and submit to the Executive (Cabinet) reports on the service's projected expenditure compared with its budget, in consultation with the Chief Finance Officer.
- 3.4.7 To ensure prior approval by the full Council or Executive (Cabinet) (as appropriate) for significant new proposals<sup>2</sup>:
  - (a) create new financial commitments in the current year
  - (b) create financial commitments in future years
  - (c) change existing policies, initiate new policies or cease existing policies
  - (d) materially extend or reduce the authority's services.
- 3.4.8 To ensure compliance with the scheme of virement.
- 3.4.9 To agree with the relevant Senior Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

## **B4 BUDGETS AND MEDIUM-TERM PLANNING**

### **4.1 Why Is This Important?**

- 4.1.1 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.
- 4.1.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.

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<sup>2</sup> A report on new proposals should explain the full financial implications, following consultation with the Chief Finance Officer. Unless the full Council or Executive (Cabinet) has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their cash limit.

4.1.3 Medium-term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

## **4.2 Key Controls**

4.2.1 The key controls for budgets and medium-term planning are:

- (a) specific budget approval for all expenditure
- (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Executive (Cabinet) for their budgets and the level of service to be delivered
- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

## **4.3 Responsibilities of the Chief Finance Officer**

- 4.3.1 To prepare and submit reports on budget prospects for the Executive (Cabinet), including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 4.3.2 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council, and after consultation with the Executive (Cabinet) and Senior Officers.
- 4.3.3 To prepare and submit reports to the Executive (Cabinet) on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council tax to be levied.
- 4.3.4 To advise on the medium-term implications of spending decisions.
- 4.3.5 To encourage the best use of resources and value for money by working with Senior Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 4.3.6 To advise the full Council on Executive (Cabinet) proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

## **4.4 Responsibilities of Senior Officers**

- 4.4.1 To prepare estimates of income and expenditure, in consultation with and having regard to the formal guidance issued by the Chief Finance Officer, to be submitted to the Executive (Cabinet).
- 4.4.2 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 4.4.3 When drawing up draft budget requirements, to have regard to:

- (a) guidance issued by the Chief Finance Officer
- (b) spending patterns and pressures revealed through the budget monitoring process
- (c) legal requirements
- (d) policy requirements as defined by the full Council in the approved policy framework
- (e) initiatives already under way
- (f) revenue costs of proposed capital schemes

## **B5 RESOURCE ALLOCATION**

### **5.1 *Why Is This Important?***

5.1.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### **5.2 *Key Controls***

5.2.1 The key controls for resource allocation are:

- (a) resources are acquired in accordance with the law and using an approved authorisation process
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
- (c) resources are securely held for use when required
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **5.3 *Responsibilities of the Chief Finance Officer***

5.3.1 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

5.3.2 To assist in the allocation of resources to budget managers.

### **5.4 *Responsibilities of Senior Officers***

5.4.1 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.

5.4.2 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **B6 Capital Programmes**

### **6.1 Why Is This Important?**

6.1.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

6.1.2 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### **6.2 Key Controls**

6.2.1 The key controls for capital programmes are:

- (a) specific approval by the full Council for the programme of capital expenditure (regardless of the funding source)
- (b) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Executive (Cabinet)
- (c) approval by the Executive (Cabinet) where capital schemes are to be financed from the revenue budget, up to a specified amount, and subject to the approval of the full Council where the expenditure exceeds this amount
- (d) no scheme to proceed unless all required finance and other necessary approvals have been obtained
- (e) proposals for improvements and alterations to buildings must be approved by the appropriate Senior Officer and the Head of Property and Assets and Assets
- (f) schedules for individual schemes within the overall budget approved by the full Council must be submitted to the Executive (Cabinet) for approval (for example, minor works), or under other arrangements approved by the full Council
- (g) the development and implementation of asset management plans
- (h) a nominated, accountable budget manager for each scheme and/or component of the programme
- (i) monitoring of progress in conjunction with expenditure, and comparison with approved budget and remedial action taken to address overspends.
- (j) compliance with the Council's Procurement Policy and Contract Standing Orders, for example when inviting competing quotes or tenders.

### **6.3 *Responsibilities of the Chief Finance Officer***

- 6.3.1 To prepare capital estimates jointly with Senior Officers and the Head of Paid Service and to report them to the Executive (Cabinet) for approval. The Executive (Cabinet) will make recommendations on the capital estimates and on any associated financing requirements to the full Council. The approval of the Executive (Cabinet) is required where a Senior Officer proposes to bid for or exercise additional borrowing approval not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
- 6.3.2 To prepare and submit reports to the Executive (Cabinet) on the projected income, expenditure and resources compared with the approved estimates and to obtain authorisation for any variations outside approved virement limits.
- 6.3.3 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Chief Finance Officer, having regard to government regulations and accounting requirements.

### **6.4 *Responsibilities of Senior Officers***

- 6.4.1 To comply with guidance concerning capital schemes and controls issued by the Chief Finance Officer.
- 6.4.2 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Chief Finance Officer.
- 6.4.3 To ensure that tenders and/or quotations are obtained in accordance with the Council's Procurement Policy and Contract Standing Orders. This includes ensuring that centrally negotiated contracts are used if they are in place.
- 6.4.4 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare regular returns of estimated final costs of schemes in the approved capital programme for consideration by the Chief Finance Officer and inclusion in regular reports to the Executive (Cabinet) where appropriate.
- 6.4.5 To ensure that adequate records are maintained for all capital contracts in line with Contract Standing Orders.
- 6.4.6 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Chief Finance Officer where required.
- 6.4.7 To ensure that all necessary approvals have been received from the Planning Authority, or Government Departments where appropriate.
- 6.4.8 To prepare and submit reports, jointly with the Chief Finance Officer, to the Executive (Cabinet), of any variation in contract costs greater than the amount approved within the Capital Programme. Senior Officers may meet cost increases of up to 10% or £20,000, whichever is the greater, by virement from savings elsewhere within their capital programme or revenue budget, subject to agreement with the Chief Finance Officer.

- 6.4.9 To prepare and submit reports, jointly with the Chief Finance Officer, to the Executive (Cabinet), on completion of all contracts where the final expenditure exceeds the approved contract sum.
- 6.4.10 To ensure that the revenue implications of all capital proposals are fully evaluated, and provision made within the relevant service area revenue cash limit.
- 6.4.11 To ensure that no sums in the Capital Programme which are not scheme specific and which remain unspent at the year-end are carried forward without the approval of the Chief Finance Officer. Where such sums are overspent, the amount will be a first call on the equivalent allocation in the subsequent year's programme.
- 6.4.12 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer and, if applicable, approval of the scheme through the capital programme.
- 6.4.13 To consult with the Chief Finance Officer and to seek Executive (Cabinet) approval where the Chief Officer proposes to bid for supplementary credit approvals or other external funding support to support expenditure that has not already been included in the approved Capital Programme.
- 6.4.14 To ensure that no schemes are brought forward or substituted in the Capital Programme where 'slippage' of an approved scheme may have occurred.

## **B7 MAINTENANCE OF RESERVES**

### **7.1 *Why Is This Important?***

- 7.1.1 The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **7.2 *Key Controls***

- 7.2.1 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.
- 7.2.2 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 7.2.3 Authorisation and expenditure from specific reserves by the appropriate Senior Officer only with the approval of the Chief Finance Officer (except in the case of allocations from the Council's general contingency reserves, which will require the approval of the Executive (Cabinet)).

### **7.3 *Responsibilities of the Chief Finance Officer***

- 7.3.1 To advise the Executive (Cabinet) and/or the full Council on prudent levels of general reserves for the authority.

#### **7.4 *Responsibilities of Senior Officers***

- 7.4.1 To ensure that resources are used only for the purposes for which they were intended



## **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **INTRODUCTION**

- 1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

### **RISK MANAGEMENT AND INSURANCE**

- 2 The Executive (Cabinet) is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Chief Finance Officer is responsible for ensuring that proper insurance exists where appropriate.

### **INTERNAL CONTROL**

- 3 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- 4 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 5 It is the responsibility of Senior Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **AUDIT REQUIREMENTS**

- 6 The Accounts and Audit (England) Regulations require every local authority to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking in to account public sector internal audit standards and guidance.
- 7 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- 8 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

- 9 The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and corruption policy. The policy will be approved and monitored by the Standards Committee.

## **ASSETS**

- 10 Senior Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **TREASURY MANAGEMENT**

- 11 The authority has adopted CIPFA's Treasury Management in the Public Services: Code of Practice for Treasury Management in Local Authorities.
- 12 The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in CIPFA's Treasury Management in the Public Services: Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the full Council by the Executive (Cabinet). The Chief Finance Officer has delegated responsibility for implementing and monitoring the statement.
- 13 All money in the hands of the authority is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the code as the Chief Finance Officer, who shall make appropriate banking arrangements. A formal statement of adoption is attached at Schedule 2.
- 14 The Chief Finance Officer is responsible for reporting to the Executive (Cabinet) in line with the Code of Practice for Treasury Management as adopted by the Council.
- 15 All Executive (Cabinet) decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, and such Officers as he or she may nominate, who shall be required to act in accordance with CIPFA's Treasury Management in the Public Services: Code of Practice for Treasury Management in Local Authorities.
- 16 The Chief Finance Officer is responsible for reporting to the Executive (Cabinet) not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

## **TRUST FUNDS, FUNDS HELD FOR THIRD PARTIES AND OTHER VOLUNTARY FUNDS**

- 17 All trust funds, funds held for third parties and other voluntary(unofficial)funds must be approved by the Chief Finance Officer. A voluntary (unofficial) fund is defined as any fund, other than an official fund for the Council, which is controlled wholly or in part by an officer by reason of his or her employment by the Council.
- 18 Senior Officers are responsible for ensuring that they are operated in line with appropriate legislation and/or Charity Commision guidance if appropriate.

- 19 Senior Officers shall ensure that all such funds are audited by suitably qualified auditors and are submitted within 6 months of the end of the accounting period to the Council and any other parties (i.e. clients, sponsors, charitable bodies) with an interest in the fund.
- 20 The Chief Finance Officer reserves the right to inspect all documentation relating to unofficial funds and seek such explanations that are necessary to ensure they are being appropriately managed. From time to time the Chief Finance Officer may issue specific guidance on such funds that must be complied with.

## **STAFFING**

- 21 The full Council is responsible for determining how officer support for Executive (Cabinet) and non-Executive (Cabinet) roles within the authority will be organised.
- 22 The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 23 Senior Officers are responsible for controlling total staff numbers by:
  - advising the Executive (Cabinet) on the budget necessary in any given year to cover estimated staffing levels required to deliver approved levels of service and having regard to statutory provision.
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - the proper use of appointment procedures.

# Appendix to Financial Regulation C

## C1 RISK MANAGEMENT AND INSURANCE

### 1.1 *Why Is This Important?*

- 1.1.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 1.1.2 It is the overall responsibility of the Executive (Cabinet) to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

### 1.2 *Key Controls*

- 1.2.1 The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
  - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
  - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
  - (d) provision is made for losses that might result from the risks that remain
  - (e) procedures are in place to investigate claims within required timescales
  - (f) acceptable levels of risk are determined and insured against where appropriate
  - (g) the authority has identified service continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

### 1.3 *Responsibilities of the Head of Paid Service and Chief Finance Officer*

#### **Head of Paid Service**

- 1.3.1 To prepare and promote the authority's risk management policy statement.
- 1.3.2 To develop risk management controls in conjunction with other Senior Officers.

#### **Chief Finance Officer**

- 1.3.3 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 1.3.4 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.
- 1.3.5 To maintain a continuous review of claims experience and to effect the optimum balance of internal and external insurance cover over time.

#### **1.4 *Responsibilities of Senior Officers***

- 1.4.1 To notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Chief Finance Officer or the authority's insurers.
- 1.4.2 To co-operate at all times with the investigations of the Risk Manager and supply all information upon request. It is imperative that officers comply with the timescales for investigating claims. Failure could directly affect the authority's ability to defend a claim or could result in financial penalties being imposed on the authority.
- 1.4.3 To take responsibility for risk management, having regard to advice from the Chief Finance Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).
- 1.4.4 To ensure that there is a continuous review of exposure to risk within their departments.
- 1.4.5 To notify the Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 1.4.6 To consult the Chief Finance Officer on the terms of any indemnity that the authority is requested to give.
- 1.4.7 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **C2 INTERNAL CONTROLS**

### **2.1 *Why Is This Important?***

- 2.1.1 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 2.1.2 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.1.3 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

2.1.4 The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations
- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management.

## **2.2 Key Controls**

2.2.1 The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually (within the Annual Governance Statement) to the effect that it is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Public Sector Internal Audit Standards (Applying the IIA International Standards to the UK Public Sector) and with any other statutory obligations and regulations.

## **2.3 Responsibilities of the Chief Finance Officer**

2.3.1 To assist the authority 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 laws and regulations.

## **2.4 Responsibilities of Senior Officers**

2.4.1 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.

2.4.2 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Chief Finance Officer.

2.4.3 To ensure staff have a clear understanding of their responsibility to identify and manage risk on a continuous basis.

### **C3    AUDIT REQUIREMENTS – INTERNAL AUDIT**

#### **3.1    *Why Is This Important?***

- 3.1.1 The Accounts and Audit (England) Regulations 2015, regulation 5(1), require that a “relevant body must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking in to account public sector internal audit standards and guidance ”.
- 3.1.2 Accordingly, internal audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

#### **3.2    *Key Controls***

- 3.2.1 The key controls for internal audit are:
- (a) that it is independent of day-to-day service operation in its planning and operation
  - (b) the Head of Internal Audit has direct access to the Head of Paid Service, all levels of management and directly to elected members as appropriate
  - (c) the internal auditors comply with the Public Sector Internal Audit Standards (Applying the IIA International Standards to the UK Public Sector).

#### **3.3    *Responsibilities of the Head of Paid Service***

- 3.3.1 To arrange for a continuous and current internal audit of risk management, internal controls and governance arrangements of Council activities (on a risk-based approach) in liaison with the Chief Finance Officer.
- 3.3.2 To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times
  - (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (g) directly access the Head of Paid Service, the Executive (Cabinet), the Audit Committee and the Standards Committee where appropriate.
- 3.3.3 To ensure that Internal Audit staff at all times respect the confidentiality of operations or management information in the areas subject to audit activity.
- 3.3.4 To approve the annual audit plans prepared by the Head of Internal Audit, which take account of the characteristics and relative risks of the activities involved.

- 3.3.5 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- 3.3.6 To ensure the provision of advice on the nature and extent of any further investigation to be conducted following the discovery or report of any irregularity involving cash, stores or other assets. Where there is the possibility of criminal action being brought, to ensure that any further interviewing is conducted to meet the requirements of the Police and Criminal Evidence Act 1984 and other relevant legislation.
- 3.3.7 To refer any matter to the Police following consultation with the Senior Officer concerned, and the Monitoring Officer.
- 3.3.8 To ensure that at the conclusion of each internal audit, a report and recommendations (if any) are submitted promptly to the Senior Officer of the service concerned and any other relevant officer..

#### **3.4 *Responsibilities of Senior Officers***

- 3.4.1 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.4.2 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 3.4.3 To consider and respond promptly (within three working weeks of receipt of the draft report) to recommendations in audit reports.
- 3.4.4 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the Head of Internal Audit.
- 3.4.5 To notify the Chief Finance Officer and Head of Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Senior Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.4.6 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Finance Officer prior to implementation.



## **C4 AUDIT REQUIREMENTS – EXTERNAL AUDIT**

### **4.1 *Why Is This Important?***

4.1.1 The Local Government Finance Act 1982 set up the Audit Commission, which was responsible for appointing external auditors to each local authority in England and Wales. The current appointment was made by the Audit Commission under a contract running until 2017 or beyond. The contract is now managed by Public Sector Audit Appointments Ltd following the disbanding of the Audit Commission with effect from 1<sup>st</sup> April 2015. The external auditor has rights of access to all documents and information necessary for audit purposes.

4.1.2 The basic duties of the external auditor 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 follow when carrying out their duties. The latest code of practice relating to Local Government was published in 2010 and sets out the auditor's objectives to review and report:

- (a) an opinion on the Council's financial statements
- (b) grant claim certification
- (c) a conclusion on the Council's Use of Resources (including value for money opinion)..

4.1.3 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### **4.2 *Key Controls***

4.2.1 The current external auditors were appointed by the Audit Commission under a contract up to 2017 or beyond. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **4.3 *Responsibilities of the Chief Finance Officer***

4.3.1 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

4.3.2 To ensure there is effective liaison between external and internal audit.

4.3.3 To work with the external auditor and advise the full Council, Executive (Cabinet) and Senior Officers on their responsibilities in relation to external audit.

### **4.4 *Responsibilities of Senior Officers***

4.4.1 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.

4.4.2 To ensure that all records and systems are up to date and available for inspection.

## **C5 PREVENTING FRAUD AND CORRUPTION**

### **5.1 *Why Is This Important?***

5.1.1 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

5.1.2 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

5.1.3 The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

### **5.2 *Key Controls***

5.2.1 The key controls regarding the prevention of financial irregularities are that:

- (a) the authority has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption
- (b) all members and staff act with integrity and lead by example
- (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
- (d) high standards of conduct are promoted amongst members by the standards committee
- (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- (f) whistleblowing procedures are in place and operate effectively
- (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

### **5.3 *Responsibilities of the Chief Finance Officer***

5.3.1 To develop and maintain an anti-fraud and corruption policy.

5.3.2 To maintain adequate and effective internal control arrangements.

5.3.3 To ensure that all suspected irregularities are reported to the Head of Internal Audit, Monitoring Officer, the Head of Paid Service and the Executive (Cabinet) as appropriate.

### **5.4 *Responsibilities of Senior Officers***

5.4.1 To ensure that all suspected irregularities are reported to the Head of Internal Audit.

5.4.2 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

- 5.4.3 To ensure that where financial impropriety is discovered, the Chief Finance Officer is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, the Police may be called in following consultation with the Chief Finance Officer and/or Monitoring Officer to determine with the Crown Prosecution Service whether any prosecution will take place.
- 5.4.4 To maintain a departmental register of staff interests, such that potential conflicts of interest are identified and avoided wherever possible.

## **C6 SECURITY OF ASSETS**

### **6.1 *Why Is This Important?***

- 6.1.1 The authority 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 service delivery, and that there are arrangements for the security of both assets and information required for service operations. Up-to-date asset registers (or inventories) are a prerequisite for proper fixed asset accounting and sound asset management.

### **6.2 *Key Controls***

- 6.2.1 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for
  - (b) resources are available for use when required
  - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
  - (d) asset registers are maintained for the authority, assets are recorded when they are acquired by the authority and the records are updated as changes occur with respect to the location and condition of the asset
  - (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
  - (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

### **6.3 *Responsibilities of the Senior Officer and Chief Finance Officer***

#### ***Senior Officer***

- 6.3.1 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of a pre-determined level which will be kept under review. The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded
- used efficiently and effectively
- adequately maintained
- adequately covered for insurance purposes.

#### ***Chief Finance Officer***

- 6.3.2 To receive the information required for accounting, costing and financial records from each Senior Officer.
- 6.3.3 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).
- 6.3.4 To provide guidance on the form of records to be kept for stocks and stores.

#### **6.4 *Responsibilities of Senior Officers***

- 6.4.1 The appropriate Senior Officer shall ensure that adequate inventories are maintained in a form approved by the Chief Finance Officer for all properties, plant and machinery, furniture, fittings equipment and any moveable assets of significant value currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 6.4.2 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Senior Officer in consultation with the Chief Finance Officer and Head of Property and Assets, has been established as appropriate.
- 6.4.3 To ensure the proper security of all buildings and other assets under their control.
- 6.4.4 Where land or buildings are surplus to requirements, to notify the Chief Finance Officer and/or Head of Property and Assets in order that alternative uses or disposal may be considered.
- 6.4.5 To pass title deeds to the Chief Legal Officer who is responsible for custody of all title deeds.
- 6.4.6 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 6.4.7 To ensure the safe custody of vehicles, equipment, furniture, stock, stores, uniforms, keys, staff identity cards and other property belonging to the authority and to maintain an effective system of stock control where appropriate.
- 6.4.8 To ensure that formal periodic checks of inventories are undertaken (at least annually) by the officers responsible.

- 6.4.9 To ensure that assets are identified, their location recorded and that they are appropriately marked as the property of the Council.
- 6.4.10 To consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 6.4.11 To ensure cash holdings on premises are kept to a minimum and within insured limits.
- 6.4.12 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Finance Officer as soon as possible.
- 6.4.13 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Chief Finance Officer, the Executive (Cabinet) agrees otherwise.
- 6.4.14 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Finance Officer.
- 6.4.15 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.
- 6.4.16 To carry out an annual check of all items on the inventories in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 6.4.17 To make sure that property is only used in the course of the authority's business, unless the Senior Officer concerned has given permission otherwise.
- 6.4.18 To make arrangements for the care and custody of stocks and stores in the department and to maintain adequate records in a form approved by the Chief Finance Officer.
- 6.4.19 To ensure stocks are maintained at reasonable levels, having regard to factors such as turnover, value, delivery quantities and delivery period, and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion, where significant in conjunction with the Chief Finance Officer.
- 6.4.20 To investigate and remove from the authority's records (ie write off) discrepancies as necessary, in accordance with approved procedures, or to obtain Executive (Cabinet) approval if they are of significant value following consultation with the Chief Finance Officer.

6.4.21 To authorise disposal or write off of redundant stocks and equipment in accordance with the formal documented procedure.

6.4.22 To ensure that goods are checked at the time of delivery, matched to order specification and that a delivery note is obtained.

## **C7 INTELLECTUAL PROPERTY**

### **7.1 *Why Is This Important?***

7.1.1 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

7.1.2 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **7.2 *Key Controls***

7.2.1 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should only proceed following consultation with and on the advice of the Chief Finance Officer.

### **7.3 *Responsibilities of the Chief Finance Officer***

7.3.1 To develop and disseminate good practice through the authority's intellectual property procedures.

### **7.4 *Responsibilities of Senior Officers***

7.4.1 To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## **C8 DISPOSAL OF ASSETS**

### **8.1 *Why Is This Important?***

8.1.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the documented procedures which are set out as appendices to the Council's Procurement Policy .

### **8.2 *Key Controls***

8.2.1 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

8.2.2 Procedures protect staff involved in the disposal from accusations of personal gain.

### **8.3 *Responsibilities of the Chief Finance Officer***

8.3.1 To issue guidelines representing best practice for disposal of assets.

8.3.2 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

### **8.4 *Responsibilities of Senior Officers***

8.4.1 To ensure that the guidelines on the disposal of surplus or obsolete materials, stores or equipment are followed.

8.4.2 To ensure that income received for the disposal of an asset is properly banked and coded.

## **C9 TREASURY MANAGEMENT**

### **9.1 *Why Is This Important?***

9.1.1 Many millions of pounds pass through the authority's books each year. This has led to the establishment of formal codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with overriding consideration being given to the security of the authority's financial resources.

### **9.2 *Key Controls***

9.2.1 That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.

### **9.3 *Responsibilities of Chief Finance Officer***

9.3.1 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.

9.3.2 To report at least twice a year on treasury management activities to the Executive (Cabinet).

9.3.3 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Chief Finance Officer.

9.3.4 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the full Council.

9.3.5 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Senior Officer.

- 9.3.6 To effect all borrowings in the name of the authority.
- 9.3.7 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.
- 9.3.8 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed any prescribed amount.
- 9.3.9 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

**9.4 Responsibilities of Senior Officers**

- 9.4.1 To follow the instructions on banking issued by the Chief Finance Officer.
- 9.4.2 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Chief Finance Officer who will be responsible for seeking approval of the Executive (Cabinet) and/or full Council where appropriate.

**C10 TRUST FUNDS, FUNDS HELD FOR THIRD PARTIES AND OTHER VOLUNTARY FUNDS**

**10.1 Why Is This Important?**

- 10.1.1 Trust Funds and other voluntary funds frequently provide service areas with additional sources of finance to provide services to their customers. Although not public money, such funds are administered by employees of the Council in normal work time and therefore minimum standards must be met. In addition, customers, clients and benefactors who contribute to the fund are entitled to expect minimum levels of financial stewardship and accountability.
- 10.1.2 It is most important that an effective audit is carried out by a person with experience appropriate to the level of turnover of the fund. The table below, shows the Council's recommendations for appointment of auditors: -

<b>Turnover of the fund</b>	<b>Recommended level of Auditor</b>
Less than £10,000	Independent skilled person (e.g. bank or building society official)
Between £10,000 and £20,000	The Council recommends that a qualified Accountant is appointed as the auditor
Over £20,000	A qualified Accountant must be appointed as auditor

Turnover is defined as the greater of receipts or payments in the year.



The auditor must be totally independent from and have no indirect connection with the administration of the fund such as might inhibit the impartial conduct of the audit. This precludes: -

- a relative of any member of staff responsible for administering the fund.
- any member of staff involved in the administration of the fund

10.1.4 In addition the auditor should have the requisite ability and practical experience to carry out a competent examination of the accounts.

10.1.6 Where the annual variable income of the fund exceeds the VAT registration threshold (currently £55,000), the auditor should be a member of one of the six recognised accountancy bodies: -

- The Institute of Chartered Accountants of England and Wales
- The Institute of Chartered Accountants of Scotland
- The Institute of Chartered Accountants of Ireland
- The Chartered Association of Certified Accountants
- The Chartered Institute of Management Accountants
- The Chartered Institute of Public Finance and Accountancy

## **10.2 Key Controls**

10.2.1 The key controls for Trust Funds, funds held for third parties and other voluntary funds are

- (a) Funds are only used for the purposes for which they are intended
- (b) All funds are audited on an annual basis by an appropriately qualified auditor
- (c) All monies are accounted for and kept separate from Council Funds

## **10.3 Responsibilities of Chief Finance Officer**

10.3.1 To ensure that all trust funds held in the name of the Council are audited in line with any statutory requirements.

10.3.2 To provide guidance on accounting arrangements.

## **10.4 Responsibilities of Senior Officers**

10.4.1 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall

deposit securities, etc relating to the trust with the Chief Finance Officer, unless the deed otherwise provides.

10.4.2 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain written records of all transactions.

10.4.3 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

10.4.4 To follow all guidance issued by the Chief Finance Officer.

## **C11 STAFFING**

### **11.1 *Why Is This Important?***

11.1.1 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **11.2 *Key Controls***

11.2.1 The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched within agreed limits/tolerances
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **11.3 *Responsibilities of the Head of People and Development***

11.3.1 To act as an advisor to Senior Officers on areas such as National Insurance and pension contributions, as appropriate.

### **11.4 *Responsibilities of Senior Officers***

11.4.1 To produce an annual staffing budget.

11.4.2 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

11.4.3 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

11.4.4 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

## **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

- 1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

- 2 The Chief Finance Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Senior Officers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. However, Senior Officers are responsible for the proper operation of financial processes in their own departments.
- 3 Any changes to agreed procedures required or identified by Senior Officers to meet their own specific service needs must be agreed with the Chief Finance Officer.
- 4 Senior Officers must ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.
- 5 Senior Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Senior Officers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **INCOME AND EXPENDITURE**

- 6 It is the responsibility of Senior Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive (Cabinet), in respect of payments, income collection and placing orders, together with the limits of their authority. Specifically, authorised signatories and the limits of financial responsibility should be formally recorded in line with the procedure issued by the Chief Finance Officer. In no circumstance can an officer be given an unlimited limit, as this is not allowed under the Council's insurance arrangements.
- 7 The Executive (Cabinet) is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- 8 The Chief Finance Officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

### **IMPREST AND PETTY CASH ACCOUNTS**

- 9 The Chief Finance Officer in consultation with Senior Officers may make imprest/petty cash advances to officers for the purposes of paying minor items of expenditure and any other items as may be approved.

10 The Chief Finance Officer reserves the right to withdraw petty cash/imprest facilities from officers if it is deemed that they are being used inappropriately or the expenditure limit is exceeded.

11 The accounts should be kept on the imprest system and officers should maintain a record of their receipts and payments in a form and manner prescribed by the Chief Finance Officer.

#### **TAXATION**

12 The Chief Finance Officer is responsible for advising Senior Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

13 The Chief Finance Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

#### **TRADING ACCOUNTS/BUSINESS UNITS**

14 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

# Appendix to Financial Regulation D

## D1 GENERAL

### 1.1 *Why Is This Important?*

- 1.1.1 Service areas have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 1.1.2 The Chief Finance Officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

### 1.2 *Key Controls*

- 1.2.1 The key controls for systems and procedures are:
- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
  - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
  - (c) early warning is provided of deviations from target, plans and budgets that require management attention
  - (d) operating systems and procedures are secure.

### 1.3 *Responsibilities of the Chief Finance Officer*

- 1.3.1 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the authority's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems.

### 1.4 *Responsibilities of Senior Officers*

- 1.4.1 To ensure that accounting records are properly maintained and held securely.
- 1.4.2 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Finance Officer.

- 1.4.3 To 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.
- 1.4.4 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.
- 1.4.5 To comply with all other system controls as required by the Chief Finance Officer.
- 1.4.6 To ensure compliance with all guidance and relevant legislation in relation to Inland Revenue and Customs and Excise requirements, and be responsible for meeting any penalties and interest payments which may arise following non-compliance from delegated budgets.
- 1.4.7 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 1.4.8 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 1.4.9 To ensure that systems are documented and staff trained in operations.
- 1.4.10 To consult with the Chief Finance Officer before changing any existing system or introducing new systems.
- 1.4.11 To establish a scheme of delegation identifying officers authorised to act upon the Chief Officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority; specifically to maintain an up-to-date record of authorised signatories.
- 1.4.12 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Finance Officer, together with any subsequent variations.
- 1.4.13 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 1.4.14 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 1.4.15 To ensure that relevant standards and guidelines for computer systems issued by the Council's Head of Core Process, Information and Technology are observed.

- 1.4.16 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 1.4.17 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **D2 INCOME**

### **2.1 *Why Is This Important?***

2.1.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance or at the point of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debts.

### **2.2 *Key Controls***

2.2.1 The key controls for income are:

- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (c) all money received by an employee on behalf of the authority is paid without delay to the Chief Finance Officer or, as he or she directs, to the authority's bank or National Giro account, and properly recorded. The responsibility for cash collection should, ideally, be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- (d) income received is not used to meet expenditure
- (e) effective action is taken to pursue non-payment within defined timescales
- (f) formal approval for debt write-off is obtained
- (g) appropriate write-off action is taken within defined timescales
- (h) appropriate accounting adjustments are made following write-off action
- (i) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule



- (j) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

### **2.3 Responsibilities of the Chief Finance Officer**

- 2.3.1 To agree arrangements and promote best practice for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 2.3.2 To collect income due in all cases where formal invoices are raised.
- 2.3.3 To ensure that all income received is banked properly.
- 2.3.4 To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 2.3.5 To agree the write-off of bad debts and to report to the Executive (Cabinet) on a periodic basis.
- 2.3.6 To approve all debts to be written off in consultation with the relevant Senior Officer and to keep a record of all sums written off and to adhere to the requirements of the Accounts and Audit Regulations 1996.
- 2.3.7 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 2.3.8 To ensure that appropriate accounting adjustments are made following write-off action.

### **2.4 Responsibilities of Senior Officers**

- 2.4.1 To establish a charging framework for the supply of goods or services, including the appropriate charging of VAT, which accords with the Council's charging policy and to review it regularly.
- 2.4.2 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable. Where official invoices are raised, to ensure that the debtor makes payment to the Chief Finance Officer and not to collect or directly pursue income in such cases.
- 2.4.3 To issue official receipts or to maintain other documentation for income collection in a form approved by the Chief Finance Officer.
- 2.4.4 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 2.4.5 To hold securely receipts, tickets and other records of income for the appropriate period.
- 2.4.6 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

- 2.4.7 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis. All cheques, money orders and postal orders received in any service area shall be crossed "Swindon Borough Council".
- 2.4.8 To ensure income is not used to cash personal cheques or make other payments.
- 2.4.9 To ensure that debtor invoices are raised and despatched promptly following any work done, goods supplied or services rendered where payment has not been received at or prior to the point of supply. Senior Officers should establish performance management systems to monitor the timely billing and collection of income and draw any areas of concern to the attention of the Chief Finance Officer. Senior Officers have a responsibility to assist the Chief Finance Officer in collecting debts that they have originated, by providing any further information requested by the debtor, or by the Chief Finance Officer's credit control staff. Specifically, service areas should not themselves pursue income where official invoices have been raised.
- 2.4.10 To ensure that only up to approved (and insured) levels of cash are held on any premises.
- 2.4.11 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 2.4.12 To recommend to the Chief Finance Officer debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 2.4.13 To notify the Chief Finance Officer of any contracts, leases or other arrangements entered into, which involve the payment of money to the Council.

### **D3 ORDERING AND PAYING FOR WORK, GOODS AND SERVICES**

#### **3.1 *Why Is This Important?***

- 3.1.1 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's procurement policy.
- 3.1.2 Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.

### **3.2 Key Controls**

- 3.2.1 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
  - (b) all goods and services shall be ordered in accordance with the Council's Procurement Policy.
  - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
  - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
  - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
  - (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
  - (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
  - (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.
- 3.2.2 Official orders must be in a form approved by the Chief Finance Officer and must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified or agreed by the Chief Finance Officer. Standard terms and conditions must not be varied without the prior approval of the Chief Finance Officer.
- 3.2.3 Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the authority shall be by cheque or other instrument or approved method, drawn on the authority's bank account by the Chief Finance Officer. The use of direct debit shall require the prior agreement of the Chief Finance Officer.
- 3.2.4 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **3.3 Responsibilities of the Chief Finance Officer**

- 3.3.1 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 3.3.2 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 3.3.3 To approve the form of official orders and associated terms and conditions.

- 3.3.4 To make payments from the authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 3.3.5 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 3.3.6 To make payments to contractors on the certificate of the appropriate Senior Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 3.3.7 To provide advice and encouragement on making payments by the most economical means.

#### **3.4 *Responsibilities of Senior Officers***

- 3.4.1 To ensure that unique pre-numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.
- 3.4.2 To ensure that no orders are issued for goods or services where the cost is not covered by an approved budget.
- 3.4.3 To ensure that orders are only used for goods and services provided to and for the use of the service area. Individuals must not use official orders to obtain goods or services for their private use.
- 3.4.4 To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- 3.4.5 To ensure that copy orders are retained and made readily available for inspection and that these contain full details of goods and services to be supplied, prices and discounts where appropriate. To ensure that stocks or unused order forms are held securely by a designated officer in each service area.
- 3.4.6 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 3.4.7 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
  - (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices

- (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- 3.4.8 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 3.4.9 To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Chief Finance Officer.
- 3.4.10 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the head of internal audit.
- 3.4.11 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Chief Finance Officer.
- 3.4.12 To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, in accordance with the procurement policy.
- 3.4.13 To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).
- 3.4.14 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Finance Officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 3.4.15 To notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined annually by the Chief Finance Officer.
- 3.4.16 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Finance Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 3.4.17 To notify the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

3.4.18 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

#### **D4 PAYMENTS TO EMPLOYEES AND MEMBERS**

##### **4.1 *Why Is This Important?***

4.1.1 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the full Council.

##### **4.2 *Key Controls***

4.2.1 The key controls for payments to employees and members are:

- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
  - starters
  - leavers
  - variations
  - enhancements
  - and that payments are made on the basis of timesheets or claims
- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- (d) that Inland Revenue regulations are complied with.

##### **4.3 *Responsibilities of the Chief Finance Officer***

*(In Consultation where appropriate with the Head of People and Development)*

- 4.3.1 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.3.2 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.3.3 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

- 4.3.4 To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.3.5 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.3.6 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

#### **4.4 *Responsibilities of Senior Officers***

- 4.4.1 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades scales of pay and approved budget levels.
- 4.4.2 To notify the Chief Finance Officer promptly 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.
- 4.4.3 To ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.4.4 To maintain an up-to-date list of the names of officers authorised to sign records together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- 4.4.5 To ensure that payroll transactions are processed only through the payroll system, in order to ensure compliance with Inland Revenue requirements. Senior Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Chief Finance Officer.
- 4.4.6 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Chief Finance Officer is informed where appropriate.
- 4.4.7 To ensure that the Chief Finance Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

4.4.8 To ensure that all appropriate payroll documents are retained and stored for the defined statutory period

#### **4.5 Responsibilities of Members**

4.5.1 To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the financial year end.

### **D5 IMPREST AND PETTY CASH ACCOUNTS**

#### **5.1 Why Is This Important?**

5.1.1 There are times when it is not appropriate to raise an order and purchase through the creditor payments system. Imprest and petty cash accounts allow:-

- Urgent purchases where officers are unable to obtain goods or services in a timely manner to allow the continued delivery of the service.
- Minor items of expenditure when it would not be cost effective to purchase the item through the creditor payments system.

5.1.2 Imprest and petty cash accounts must not be used as methods of avoiding normal purchasing/payment arrangements.

#### **5.2 Key Controls**

5.2.1 The key controls for imprest and petty cash accounts are:

- (a) all transactions are properly accounted for
- (b) proper authorisation procedures are in place
- (c) there is appropriate supporting documentation for all purchases
- (d) purchases are appropriate and could not be made through the Council's normal payments system
- (e) accounts are kept in balance and reconciled on a regular basis
- (f) cash, cheque books and accounting records are held securely

#### **5.3 Responsibilities of the Chief Finance Officer**

5.3.1 To establish a petty cash/imprest system to be operated by the Council.

5.3.2 To ensure that petty cash is accounted for and correctly presented in the Council's accounts.

#### **5.4 Responsibilities of Senior Officers**

5.4.1 To ensure that employees operating an imprest account:

- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained



- (b) maintain the account in balance and records and submitted as required by the Chief Finance Officer at regular intervals for examination and the reimbursement of expenditure.
- (c) make adequate arrangements for the safe custody of the account
- (d) produce upon demand by the Chief Finance Officer cash and all vouchers to the total value of the imprest amount
- (e) record transactions promptly
- (f) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (g) reconcile and balance the account to the satisfaction of their line manager on leaving the employment of the Council or on ceasing to be responsible for the account
- (h) provide the Chief Finance Officer with a certificate of the value of the account held on request (normally once a year)
- (i) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (j) ensure that no income received on behalf of the Council may be paid into a petty cash/imprest account but must be banked or paid into the Council
- (k) repay to the Council the balance of the petty cash/imprest held upon leaving the Council or at the request of the Chief Finance Officer

5.4.2 In no circumstances shall cheque imprest accounts be allowed to go overdrawn.

## **D6 Taxation**

### **6.1 *Why Is This Important?***

6.1.1 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **6.2 *Key Controls***

6.2.1 The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues
- (b) budget managers are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **6.3 *Responsibilities of the Head of People, Performance and Engagement, and the Chief Finance Officer***

6.3.1 To complete all Inland Revenue returns regarding PAYE.

#### ***Chief Finance Officer***

6.3.2 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

6.3.3 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

6.3.4 To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.

### **6.4 *Responsibilities of Senior Officers***

6.4.1 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.

6.4.2 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

6.4.3 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

6.4.4 To follow the guidance on taxation issued by the Chief Finance Officer in the authority's accounting manual and VAT manual.

## **D7 TRADING ACCOUNTS AND BUSINESS UNITS**

### **7.1 *Why Is This Important?***

7.1.1 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations.

### **7.2 *Responsibilities of the Chief Finance Officer***

7.2.1 To advise on the establishment and operation of trading accounts and business units.

### **7.3 *Responsibilities of Senior Officers***

7.3.1 To observe all statutory requirements in relation to business units, including, where required, the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged.

7.3.2 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

7.3.3 To ensure that any business unit prepares an annual business plan.

## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

- 1 The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **PARTNERSHIPS**

- 2 The Executive (Cabinet) is responsible for approving delegations, including frameworks for partnerships. The Executive (Cabinet) is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 3 The main reasons for entering into a partnership are:
  - (a) the desire to find new ways to share risk
  - (b) the ability to access new resources
  - (c) to provide new and better ways of delivering services
  - (d) to forge new relationships.
- 4 A partner is defined as either:
  - (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a projector
  - (b) a body whose nature or status give it a right or obligation to support the project.
- 5 Partners participate in projects by:
  - (a) acting as a project deliverer or sponsor, solely or in concert with others
  - (b) acting as a project funder or part funder
  - (c) being the beneficiary group of the activity undertaken in a project.
- 6 Partners have common responsibilities:
  - (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - (c) be open about any conflict of interests that might arise
  - (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors

- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
  - (f) to act wherever possible as ambassadors for the project.
- 7 The Executive (Cabinet) can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation that forms part of the authority's constitution. Where functions are delegated, the Executive (Cabinet) remains accountable for them to the full Council.
  - 8 The Head of Paid Service represents the authority on various partnership and external bodies.
  - 9 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
  - 10 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
  - 11 Senior Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **EXTERNAL FUNDING**

- 12 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

#### **WORK FOR THIRD PARTIES**

- 13 The Executive (Cabinet) is responsible for approving the contractual arrangements for any work for third parties or external bodies (Note: this may be delegated to Senior Officers in accordance with the Council's scheme of delegation).

# Appendix to Financial Regulation E

## E1 PARTNERSHIPS

### 1.1 *Why Is This Important?*

1.1.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others: public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

1.1.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

### 1.2 *Key Controls*

1.2.1 The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and the code of practice on tenders and contracts
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### 1.3 *Responsibilities of the Chief Finance Officer*

1.3.1 To advise on effective controls that will ensure that resources are not wasted.

1.3.2 To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements

- (e) carry-forward arrangements
- (f) recovery of overheads.

1.3.3 To ensure that the accounting arrangements are satisfactory.

#### **1.4 *Responsibilities of Senior Officers***

1.4.1 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Chief Finance Officer.

1.4.2 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Chief Finance Officer.

1.4.3 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

1.4.4 To ensure that all agreements and arrangements are properly documented.

1.4.5 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the authority's statement of accounts concerning material items.

## **E2 EXTERNAL FUNDING**

### **2.1 *Why Is This Important?***

2.1.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### **2.2 *Key Controls***

2.2.1 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **2.3 *Responsibilities of the Chief Finance Officer***

- 2.3.1 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 2.3.2 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 2.3.3 To ensure that audit requirements are met.

### **2.4 *Responsibilities of Senior Officers***

- 2.4.1 To ensure that all claims for funds are made by the due date.
- 2.4.2 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **E3 WORK FOR THIRD PARTIES**

### **3.1 *Why Is This Important?***

- 3.1.1 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

### **3.2 *Key Controls***

- 3.2.1 The key controls for working with third parties are:
  - (a) to ensure that proposals are costed properly in accordance with guidance provided by the Chief Finance Officer
  - (b) to ensure that contracts are drawn up using guidance provided by the Chief Finance Officer and that the formal approvals process is adhered to
  - (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **3.3 *Responsibilities of Chief Finance Officer***

- 3.3.1 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **3.4 *Responsibilities of Senior Officers***

- 3.4.1 To ensure that the approval of the Executive (Cabinet) is obtained before any negotiations are concluded to work for third parties.
- 3.4.2 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer.
- 3.4.3 To ensure that appropriate insurance arrangements are made.



- 3.4.4 To ensure that the authority is not put at risk from any bad debts.
- 3.4.5 To ensure that no contract is subsidised by the authority.
- 3.4.6 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 3.4.7 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 3.4.8 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 3.4.9 To ensure that all contracts are properly documented.
- 3.4.10 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the statement of accounts.

# Schedule 1

## SCHEDULE OF OFFICER RESPONSIBILITIES

The Financial Regulations refer to a number of generic job titles:

- The Head of Paid Service
- The Monitoring Officer
- The Chief Finance Officer.

As at 1<sup>st</sup> October 2005, the following officers are responsible for these roles.

<b>Job Title</b>	<b>Responsible Officer</b>
The Head of Paid Service	Chief Executive
The Monitoring Officer	Chief Legal Officer
Chief Finance Officer	Corporate Director of Finance and Assets (Section 151 Officer)

This schedule will be updated as and when required.

## Schedule 2

### **NEW FORMAL ADOPTION CLAUSES FOR TREASURY MANAGEMENT CODE OF PRACTICE**

1. "Swindon Borough Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code) as described in Section 4 of that Code.
2. Accordingly, Swindon Borough Council will create and maintain, as the cornerstones for effective treasury management:
  - a) A treasury management policy statement, stating the policies and objectives of its treasury management activities
  - b) Suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of Swindon Borough Council. Such amendments will not result in any material deviation from the Code's key recommendations.

3. Swindon Borough Council will receive reports on its treasury management policies, practices and activities, including as a minimum an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs.
4. Swindon Borough Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution of treasury management decisions to the Director of Finance, who will act in accordance with the organisation's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management."
5. Swindon Borough Council nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

These clauses will form part of the Council's Constitution Standing Orders/Financial Regulations and Treasury Management Practices.

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## Standing Orders Relating to Contracts

Under Section 135, Local Government Act 1972

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29. Extensions to Contract

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## Appendix 1

### 30. Technical Amendments

Further Advice: Legal Services: Internal Audit: Corporate Finance: Procurement Teams:

#### **Section A - Scope of Standing Orders and General Information**

##### **1 Principles**

- 1.1 By law, the Council is required to make standing orders with respect to contracts for the supply of goods or materials or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited.
- 1.2 These Standing Orders set out the rules which must be followed by the Council when it procures goods, services or works (including disposal of the same). They should be read in conjunction with the Council's Procurement Policy and guidance within the Procurement Toolkit which must also be complied with. The purpose of these Standing Orders is to provide guidance and procedures to assist officers who deal with any form of procurement and are designed to obtain competition, ensure Best Value is achieved, ensure propriety, secure compliance with UK and relevant and applicable International Law and serve to deter fraud and corruption. They also provide a framework within which the contracts process is accountable, transparent and auditable.
- 1.3 The Council is a contracting authority for the purposes of the Public Procurement regulations and is thereby legally bound to comply with certain practices and procedures in the award of Contracts therefore every Contract made by the Council or on its behalf (irrespective of the source of funding) shall comply with the Public Contracts Regulations 2015 (amended by The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 and The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020) and all other applicable International and domestic legal requirements including the World Trade Organisations (WTO) Government Procurement Agreement (GPA). In the event that there is any conflict or inconsistency between the provisions of Standing Orders and any legal requirement, the legal requirement shall apply.
- 1.4 The principles of procurement are set out within the Public Contracts Regulations and include requirements to treat economic operators equally and without discrimination and that the contracting authority shall act in a transparent and proportionate manner. The principles apply generally in the award of public contracts – including those of a value below the GPA Thresholds. Care must be taken at all times to ensure that nothing is done which is discriminatory, improper or which distorts competition.
- 1.5 These Standing Orders supplement the officers' code of conduct and a failure to comply will normally be regarded as a disciplinary offence. Where a person who is not a Council employee is contracted to a position where they are authorised to carry out purchasing functions, it is a condition of their contract that they comply with Standing Orders.

##### **2. Extent and Application**

- 2.1 These Contract Standing Orders are made under Section 135 of the Local Government Act 1972 and apply to all contracts for the procurement of all goods, services and works by the Council irrespective of the source of funding, including, ad hoc, one-off requirements, and they will be applied by any employee or agent of Swindon Borough Council undertaking any procurement (or disposal) activity on behalf of the Council.
- 2.2 Standing Orders must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for a particular contract.
- 2.3 These Standing orders **do not apply** to Contracts relating to:
  - a) the employment of staff;
  - b) the engagement of specialist legal advice (including Counsel); or

## Appendix 1

- c) the acquisition, disposal, or transfer of land (as defined by Section 270 Local Government Act 1972); or
- d) the contract entered into by a school under a scheme for the Local Management of Schools.

### **3 Officer Responsibilities**

#### **3.1 Officers**

3.1.1 The Officer responsible for purchasing or disposal must comply with:

- these Contract Standing Orders including the relevant procurement processes
- the Officers Code of Conduct
- all UK and GPA binding legal requirements
- Ensuring that agents acting on his/her behalf also comply with these Standing Orders
- the requirement to take all necessary legal, financial, procurement and professional advice
- identifying the purchasing need, procurement methodology and criteria for selection and contract award in a proportionate manner
- Allowing sufficient time for submission of quotation/tender bids
- Safe receipt and storage of Tender documents
- Keeping quotations / tender bids confidential
- Ensuring preparation of a fit for purpose written specification
- Requirement to keep all written (electronic and paper-based) documentation relating to individual procurement should be retained within a dedicated Contract file, for example:
  - ◆ Invitations to Tender/Requests for Quotation and the returned written quotations/tenders
  - ◆ Any written record of any exemption sought from Standing Orders
  - ◆ Any written records of a feasibility study or business case
  - ◆ Any written record of the specification and evaluation criteria
  - ◆ Any written record of the financial management of the contract
  - ◆ Any contract variations

3.1.2 The Officer must consult with the Head of IT (or his/her nominated representative) on the purchase of all ICT related equipment or services with the exception of approved ICT framework arrangements made corporately available for call off.

#### **3.2 Senior Officers**

3.2.1 Senior Officers must:

- a) ensure that their staff comply with Standing Order 3.1.
- b) ensure all Original contracts where the contract value exceeds £500,000 or are completed by the Council's seal should be passed to the Chief Legal Officer for safekeeping.
- c) Senior Officers are responsible for the safekeeping of all other original contracts on Council premises.

#### **3.3.1 Procurement**

3.3.2 The Head of Procurement must:

- (a) Maintain a register of all contracts awarded in excess of £5,000 awarded by the Procurement Authorisation Document

#### **3.4 Appointment of Agents to Act on Behalf of the Council**

## Appendix 1

It is a condition of appointment that any consultant, architect, surveyor or any other external agent appointed to act on behalf of the Council and who is responsible for completion of a procurement process and / or the supervision of a contract on the Council's behalf will:

- a) Comply in full with the requirements of the Standing Orders, all relevant legislation and all Council policies.
- b) Ensure that any modification to the procedure for opening tenders is approved in advance by the Chief Legal Officer and with the Head of Procurement (or their representatives).
- c) Produce to the appropriate Council Officer upon request all relevant records and documentation related to the contracted service and / or contract being supervised on behalf of the Council.
- d) On completion of the contract service and / or contract, provide to the appropriate Council Officer all relevant records and documentation related to the contracted service and / or contract supervised on behalf of the Council.

### 3.5 Community Right to Challenge

3.5.1 The Community Right to Challenge means community organisations can submit to Local Authorities an Expression of Interest to run local services. This right is granted under the Localism Act 2011.

3.5.2 The relevant Corporate Director in consultation with the Cabinet Member for Finance, the Chief Legal Officer and Head of Service must ensure that appropriate processes are in place for:

- a) where considered appropriate in respect of any relevant service, the publication of details of any specified period in which expressions of interest may be submitted, including publication on the Council's website;
- b) expressions of interest received to be acknowledged within the statutory time limits; and
- c) expressions of interest to be assessed and determined.

If an Expression Of Interest is accepted by Swindon Borough Council this will trigger a procurement exercise.

### 4. Exemptions

4.1 An exemption under this Standing Order 4 allows a contract to be placed by direct negotiation with one or more suppliers (rather than in accordance with Standing Order 10) provided it is satisfied that special, exceptional or emergency circumstances justify the exemption.

4.2 Before seeking an exemption the Officer must take any necessary advice from the Head of Procurement, Head of Finance, and Chief Legal Officer (or their nominated representatives).

4.3 Where contract limits dictate GPA applies, exemptions cannot normally be made.

4.4 Senior Officers may propose exemptions in accordance with paragraph 4.4 for contracts below the relevant GPA Procurement thresholds however these must be authorised by the Chief Legal Officer, Head of Procurement and Head of Finance (or their nominated representatives) and the reasons for the exemption recorded using the '*Procurement Authorisation Document*'.

- a) Where an exemption is necessary because of **unforeseen emergency** involving immediate risk to persons, property or serious disruption to Council services



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- b) Where an exemption is necessary because the contract relates to Goods, work or services which in the opinion of the Head of Service is **considered urgent**. Exemptions will not be granted through lack of sufficient planning and / or internal process delays.
- c) Where an exemption is necessary because the goods, materials, works or services are of a **proprietary or very specialist nature** in respect of which there or which there is only a single source of supply e.g. patent, copyright or other exclusive design rights exist or because a pilot project is being undertaken.
- d) Where compliance with Standing Orders would result in the Council having to forego a **clear financial or commercial benefit** such as purchase at a dispersal sale or purchase of second hand goods/equipment.
- e) Where an exemption is necessary because specific terms and conditions attached to a **third party funding** source sets out a legally compliant method for the way a contract is to be let.

All contracts entered into under this exemption shall fully comply with Standing Orders 19, 20,21,22,23,24,25,26, and 27.

- 4.5 A record of exemptions will be reported to the Cabinet Member with the responsibility for Procurement on a bi-annual basis.
- 4.6 The Council or the Cabinet have power to dispense with any provision of these Standing Orders.

### Section B – Common Requirements

#### 5. Prior to Purchase

- 5.1 Before beginning a purchase, the Officer responsible for it must: in a manner proportionate to the complexity and value of the purchase:
  - i. take into account the requirements of Best Value and any strategic commissioning review;
  - ii. define the objectives and outcomes of the purchase;
  - iii. have regard to the Council's Procurement Policy;
  - iv. consult with the Chief Legal Officer on contractual issues where appropriate;
  - v. appraise the need for the expenditure and its priority;
  - vi. assess the risks associated with the purchase and how to manage them;
  - vii. consider and select what procurement method is most likely to achieve the purchasing objectives, including market strategy and collaboration
  - viii. consult users as appropriate about the proposed procurement method, contract standards, and also performance and user satisfaction monitoring;
  - ix. consider the potential for wider economic, environmental and social value created through procurement, including opportunities to benefit local employment and local businesses within the legal framework and where Best Value can be evidenced. If it is a service over the GPA procurement threshold, Officers must take into account the potential for Social Value measures and evaluation and consult with the Head of Service responsible for the relevant service, the Chief Legal Officer and the Corporate Director of Finance and Assets;
  - x. take into account Community Right to Challenge considerations under Standing Order 3.5 and:-

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- a) consider possible community involvement, and where considered appropriate in respect of any relevant service, to publish details of any specified period in which expressions of interest may be submitted, including publication on the Council's website before commencing procurement;
- b) consult with the Head of Procurement and the Head of Service responsible for the relevant Service Area in connection with any communication received which might constitute an expression of interest;
- c) consult with the Head of Procurement the Head of Service responsible for the relevant service and the Chief Legal Officer as to assessing, determining and responding to an expression of interest;

### 6. Records

- 6.1 On completion of the Request for Quotation or Tender process, all related documentation and written records (including correspondence with Suppliers and clarifications) must be filed in a master **Contract file** by the Officer and retained for a period appropriate to the contract.
- 6.2 The **Contract file** must be retained in hard copy format on the Council premises or via an approved electronic Contract storage system.
- 6.3 For all contracts in excess of the GPA procurement Thresholds for Goods and Services, in excess of £500,000 for works or require Contract Sealing, the original tender document, the tender clarifications and any subsequent contract variations shall be passed to the to the Chief Legal Officer for safekeeping with copies kept by the officer for practical purposes.
- 6.4 For standard low risk goods and services the retention period will typically be the contract period plus one year, or the period of warranty cover, whichever is the greater. For more complex goods and services contracts and for works contracts, the retention period shall be six years (twelve years if under seal) after the end of the contract in order to deal with any long-term contractual issues.
- 6.5 Records relating to unsuccessful Suppliers may be electronically scanned or stored by some other suitable method after 1 month from award of contract and retained for 12 months, provided there is no dispute about the award.
- 6.6 Disposal of any documents under these standing orders shall be in accordance with the Councils Retention and Disposal Policy.

### 7. Advertising

- 7.1 All contract opportunities exceeding the relevant GPA procurement Thresholds are required to be advertised on the UK's e-notification service, Find a Tender Service (FTS). Strict rules apply; Officers should refer to the Procurement Toolkit for more information.
- 7.2 It is recommended to consider proportionate advertising for contract opportunities below the relevant GPA procurement thresholds, in particular when;
  - a) The Senior Officer cannot clearly evidence suitable competition from a restricted list
  - b) There is no relevant benchmarking data with regard to pricing
  - c) Tendered prices from an initial restricted list exceeds pre tender estimates
  - d) Qualitative responses from an initial restricted list are not considered adequate
  - e) Best Value cannot be clearly evidenced

The relevant Senior Officer will be responsible for ensuring Best Value is achieved through non-advertised contract opportunities. The reasons for not advertising a contract opportunity in excess of £25,000 must be recorded on the Procurement Authorisation Document.

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### 7.3 **Contracts Finder/ Find a Tender Service**

Find a Tender Service is the UK's e-notification service, a single web-based portal which is provided by or on behalf of the UK Government Cabinet Office for publication of contract notices (and will only apply to above GPA procurement Threshold) for placing and finding procurement opportunities in the UK's public sector areas.

Contracts Finder is an UK Government- domestic online portal for Suppliers to search and find new procurement opportunities within England.

For below GPA procurement Threshold contracts, contract opportunities that are in excess of £25,000 and that are **advertised** through **any other means** (e.g. Local press, regional tender portals, Find a Tender etc.) must also be replicated on Contract Finder. All of the existing obligations to publish on Contracts Finder remain the same.

For contract notices that must be published on FTS and Contracts Finder, the notice on FTS must be published first and before the notice on Contracts Finder and if a notice is also published elsewhere then that must not provide additional information not referred to in the FTS notice.

Contract award notices for all contract awards exceeding £25,000 (including single source awards, framework call offs and mini competitions) must also be placed on Contracts Finder no later than 90 days after the contract award date regardless if the original contract opportunity was advertised.

### 8. **Contract Value and Aggregation**

Contract value is calculated as the Total Aggregated Value of the requirement across the Council over the contract term (including any potential contract extension periods and additional ad-hoc requirements), exclusive of VAT. When determining if GPA procedures apply to recurrent purchases, the contract value should be measured over the entire contract period including any proposed extensions. Officers are required to consider and include the value of similar requirements in other parts of the Council when calculating a contract value. There are no exceptions to the application of the aggregation rule. On no account should any requirement be split in an attempt to avoid using the proper procedure.

## Section C – Conducting a Purchase and Disposal

### 9. **Preliminary Market Consultations (Soft Market Testing)**

- 9.1 Before commencing a procurement procedure the Officer responsible for the purchase may conduct market consultations with a view to preparing the procurement and informing suppliers of their procurement plans and requirements.
- 9.2 For this purpose, the Officer may, for example, seek or accept advice from independent experts or authorities or from suppliers.
- 9.3 Such advice may be used in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency. All relevant information provided to suppliers during preliminary market consultation shall also be provided to all tenderers to ensure equal treatment.
- 9.4 For more information on preliminary market consultations Officers should refer to the Procurement Toolkit or seek advice from the procurement team.

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### 10. Minimum Competition Thresholds

10.1 See the table below for the processes to be adopted according to the value of the contract:

Procurement Requirement	Value	Procurement Process
All requirements	Up to £25,000	<p>Under £1,000 - at least one verbal quotation</p> <p>Over £1,000 - at least one written quotation obtained.</p> <p>Over £5,000 – recommend Inviting at least three written quotations</p> <p>All requirements in excess of £5,000 must be recorded using the Procurement Authorisation Document.</p> <p>Best Value <u>must be evidenced</u> if only one quotation sought or received and the reasons clearly recorded on self-certified <b>Procurement Authorisation Document</b>.</p>
Goods and Services	Between £25,000 and *GPA Procurement Thresholds	<p>Invite at least three written quotations from the relevant industry (one if a 'direct call off' only from an approved framework agreement).</p> <p>Recommend advertising to ensure suitable competition.</p> <p>Best Value must be clearly evidenced if only one quotation/tender is received or advertising is not applied and the reasons recorded on self-certified <b>Procurement Authorisation Document</b>.</p>
Works	Between £25,000 and £500,000	<p>Invite at least three written quotations from relevant industry (one if 'direct call off' from an approved framework agreement).</p> <p>Recommend advertising to ensure suitable competition.</p> <p>Best Value must be clearly evidenced if only one quotation/tender received or advertising is not applied and the reasons clearly recorded on self-certified <b>Procurement Authorisation Document</b>.</p>
Goods and Services	Above *GPA Threshold	<p>GPA Compliant Tender process, procurement strategy must be approved through Gateway Procedure prior to tender.</p> <p><b>Procurement Authorisation Document</b> must also be completed.</p>
Works	Between £500,000 and *GPA Works threshold	<p>Advertising is strongly advised.</p> <p>Alternatively, and if justification to not advertise can be evidenced, invite at least five written quotations from relevant industry.</p> <p>Best Value must be evidenced and the reasons recorded on self-certified <b>Procurement Authorisation Document</b> if advertising not undertaken.</p> <p>For all works contracts in excess of £500,000 Procurement strategy must be approved through Gateway Procedure prior to tender.</p>

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Procurement Requirement	Value	Procurement Process
Works	Above *GPA Threshold	GPA Compliant Tender process, procurement strategy must be approved through Gateway Procedure prior to tender. <b>Procurement Authorisation Document</b> must also be completed.

*\* For the latest GPA procurement thresholds please refer to the Procurement Toolkit*

- 10.2 The authorising Officer is responsible for the obligation to conclusively prove Best Value for below GPA threshold purchases.
- 10.3 Assets for disposal must be sent to public auction except where an agreed alternative procedure is in place or where Best Value is likely to be obtained by inviting Quotations and Tenders. In the latter event, the method of disposal of assets other than land must be formally agreed with the Head of Procurement and Senior Finance Manager.
- 10.4 All disposals of ICT equipment must also formally consult with the Head of ICT (or his/her nominated representative) to agree the method for disposal.

### 11. Procurement Authorisation Document

- 11.1 The Procurement Authorisation Document is an electronic authority document that requires mandatory completion for all contract expenditure in excess of £5,000 (including framework call offs and mini competition) and must be completed by the responsible Officer, and forwarded to the Procurement team within 10 calendar days of the contract award decision to ensure compliance with legislative requirements relating to the publication of Contract award decisions.
- 11.2 The Procurement Authorisation Document must be self-certified by Officers and Senior Officers in line with their **authorised budget permission**, as documented by the Authorised Signatory List, up to the relevant GPA thresholds for Goods and Services and £500,000 for works contracts.
- 11.3 For all other Contracting decisions, including GPA Procedures, the Councils Gateway process will apply (in addition to the Procurement Authorisation Document) which includes a requirement for formal consultation with the Head of Procurement, Head of Finance and the Chief Legal Officer (or their nominated representatives) before deciding the method of conducting the purchase.
- 11.4 The Procurement Authorisation document must record all supporting evidence on achieving Best Value particularly in restricted tender lists, single source tenders and application of exemptions and must include (but not limited) to the following;
- Confirmation of budget availability
  - Tender Cost has been adequately benchmarked
  - Evidence of market stimulation, where appropriate
  - Evidence of Best Value

### 12. Gateway Process

The Gateway process is a mandatory scrutiny process for all major procurement exercises undertaken by or on behalf of the Council that exceed the following thresholds;

- a) The relevant GPA threshold for Goods and Services
- b) £500,000 for Works contracts

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The Head of Procurement, Chief Legal Officer and the Head of Finance collectively reserve the right to waive the Gateway process in exceptional circumstances only. For more information on the Gateway process, please refer to the procurement toolkit.

### 13. **Framework Agreements**

- 13.1 Where there is a benefit to the Council from using another public sector organisation's framework agreement then a due diligence exercise must be undertaken to ensure the suitability of non-standard agreement terms, the Framework has been procured in accordance with the relevant legislation and reference to the ability of the Council to join the Framework under the terms of the original advertisement. The Chief Legal Officer must, in consultation with the Head of Procurement (or their respective nominated representatives) approve the use of framework agreements.
- 13.2 When the use of an approved framework agreement allows for 'Direct call off' with a single supplier then minimum competition requirements under the GPA threshold will be deemed to have been satisfied however the Best Value rationale for using a specified framework shall be clearly set out within the *Procurement Authorisation Document*.
- 13.3 The proposed use of Framework agreements in excess of the GPA threshold for goods and services and £500,000 for works will be assessed as part of the Gateway process.
- 13.3 For all other frameworks where a mini competition must be held the results of the mini competition must be recorded using the *Procurement Authorisation Document*.

### 14. **Evaluation Criteria**

#### 14.1 **Principles of Evaluation**

- 14.1 The Senior Officer shall be responsible for ensuring that all persons or bodies invited to quote or tender for the supply of goods, services or works to the Council are suitably and proportionately assessed including (but not limited to) assessment of health and safety and financial standing.
- 14.2 Evaluation of proposals should be based on the "Most Economically Advantageous Tender" and may take account of the best price-quality ratio quality and whole life cost (or simply total acquisition cost), and must be objective, non-discriminatory and proportionate to the subject-matter of the contract.
- 14.3 Therefore for low value or low risk procurement exercises where the specification can be easily defined and assessed it may be suitable to use 'cost' award criteria only.
- 14.4 Evaluation of proposals must be strictly adhered to using the individual evaluation criteria weightings and scorings agreed during the planning stage. The criteria, Sub-Criteria and weightings must be agreed prior to the commencement of the process and detailed in any contract advertisements and tender documentation.
- 14.5 All criteria (including minimum suitability/selection criteria), Sub-Criteria and scoring must be detailed individually so that all suppliers / applicants know what scores are attached to each criteria area.
- 14.6 Weighting and criteria must not be changed once agreed and published and must be applied consistently across all proposals.
- 14.7 Where suitability/selection criteria or a separate Pre-Qualification process are to be applied, the evaluation criteria used to select applicants must not be used again in the final evaluation of

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proposals. Please note that a separate pre-qualification process is only permitted for tenders in excess of the relevant GPA threshold.

- 14.8 In an open tender process, all proposals that pass the minimum selection/suitability criteria shall have their tender assessed against the award criteria.
- 14.9 Records are to be kept of positive and negative reasons for scores, and a record made of the relative characteristics of each bid, as agreed by the Evaluation Panel. The Officer should notify in writing all those Suppliers who submitted a tender or quotation about the reasons why their bid was unsuccessful.
- 14.10 Please note for procurement projects exceeding the relevant GPA procurement Thresholds strict evaluation rules apply, for more information please refer to the Procurement Toolkit.

## 15. **Invitations to Tender/Quotations**

### 15.1 **The Use of Standard Documents**

Standard invitation to tender, Request for Quotation and selection questionnaire documents are maintained and Officers are required to use the current versions of standard documents available on the Procurement Toolkit

On occasion, amendment may be required to contract terms within the standard documentation to reflect a particular procurement exercise. Advice must be sought from the Chief Legal Officer and Head of Procurement prior to any amendment being made.

The Invitation to Tender or Request for quotation shall state that no tender or quotation will be considered unless it is received by the date and time stipulated in the invitation to tender.

- 15.2 All Invitations to Tender and Quotations exceeding £25,000 shall include the following:
- Instructions to Tenderers
  - Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense
  - SBC Terms and Conditions
  - Form of Tender
  - Certificate of Bona Fide
  - Freedom of Information Act 2000 Exemption Clause
  - Evaluation Criteria and weightings to include Sub-Criteria.
  - Specification
  - Delivery Schedules
  - Pricing Schedules

Where an Open Procedure is being conducted, a Tender Questionnaire is also to be included.

- 15.3 The Invitation to Tender or Request for Quotation must also state that the Council reserves the right not to award any contracts as a result of the procurement process, and that the contracting authority will not be liable for any of the Candidates costs in submitting a bid

## 16. **Submission, Receipt and Opening of Tenders and Quotations**

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16.1 Suppliers invited to respond must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the urgency and complexity of the contract requirement. The time periods laid down in the Public Contracts Regulations Procedures must be followed when they apply.

16.2 Tender opening procedures are set out below:

Type of purchase	Value	Acceptable format for receipt	Officers present at opening
Goods & Services or Works	Under £25,000	Approved E-tender system or Secure Electronic e-mail account	One officer
Goods & Services	Over £25,000 but under the relevant GPA threshold	Approved E-tender system or Secure Electronic e-mail account	Approved e-tender system, one authorised officer. For e-mail minimum two officers.
Goods & Services	GPA threshold and above	Approved E-tender system or alternative method agreed by the Chief Legal Officer	Approved e-tender system, one authorised officer.
Works	£25,001 - £500,000	Approved E-tender system or Secure Electronic e-mail account	Approved e-tender system, one authorised officer. For e-mail minimum two officers.
Works	£500,000 and above	Approved E-tender system or alternative method agreed by the Chief Legal Officer	Approved e-tender system, one authorised officer.

16.3 Tenders must not be opened prior to the stipulated closing date.

16.4 Upon opening, tenders or quotations must be logged immediately within the relevant procurement documentation.

16.5 For e-mail submissions, the procuring officer must ensure that tenderers limit the file size of their submission into a dedicated mailbox that is made available for receipt of tenders/quotations. The Officer must ensure that the mailbox has sufficient storage capacity to receive tenders and monitor the mailbox on a regular basis during the tendering period.



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- 16.6 Any tender or quotation received after the closing date must be rejected unless the Head of Procurement (or his/her representatives) is satisfied that it would not distort competition and it was submitted to the Council in adequate time but for technical reasons was not received (e.g. sent electronically by the Supplier prior to the closing date).

### **17. Clarification Procedures and Post-Tender Negotiation**

- 17.1 Providing clarification of an Invitation to Tender to potential Suppliers or seeking clarification of a specification in writing is permitted.
- 17.2 Clarifications responses prepared by the Council in response to a supplier enquiry during a tender process should be communicated to all Candidates in writing to ensure equal treatment.
- 17.3 Officers may conduct post tender clarifications with suppliers regarding their tender submissions however this process must be done in compliance with the legislation and must not distort competition.
- 17.4 The officer must maintain a detailed record of all clarifications conducted during the bidding process and a record kept with the contract file. All clarifications shall also form part of the contract award documentation.
- 17.5 Post-tender negotiation means negotiations with any tenderer after submission of a Tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. However it must not distort competition particularly with regard to price. Post-tender negotiation must not be conducted in a procedure exceeding the Public Contracts Regulations thresholds unless the legislation permits this.
- 17.6 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 17.7 If post-tender negotiations after a single stage tender or after the second stage of a two stage tender and permitted under the legislation, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender and must not distort competition.
- 17.8 The Head of Procurement (or his/her representatives) must be consulted wherever it is proposed to enter into post-tender negotiation.
- 17.9 Negotiations must be conducted by a team of at least two Officers.
- 17.10 Officers appointed by the Senior Officer to carry out post tender negotiations must ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions and clarifications in writing.

### **18. Award of Contract**

- 18.1 Contracts must be evaluated and awarded in accordance with the Award Criteria.
- 18.2 Every Contract with a value in excess of £25,000 to GPA procurement threshold\* shall be signed on behalf of the Council by two Officers one of whom shall be the Senior Officer.
- 18.3 Every works Contract which exceeds £500,000 in value shall be sealed with the Common Seal of the Council by Legal Services.
- 18.4 Where a Contract is awarded pursuant to delegated powers the Senior Officer shall ensure that an Officer decision notice in the form approved by the Chief Legal Officer is completed and published **including details of exemptions applied** in respect of contracts for goods and services above the GPA threshold and above £500,000 for works.

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\* See Contract Standing Order no. 22

### **19. Debriefing Suppliers**

- 19.1 Suppliers must be notified simultaneously and as soon as possible of any Contracting Decision including information with respect to the evaluation scoring for the supplier being notified and the successful suppliers scoring.
- 19.2 The notification must be in writing and sent electronically either via the approved e-tender system (where this is used) or by email.
- 19.3 For contracts where the Total Value is above the GPA Procurement Thresholds, a formal 'standstill' process will be entered into prior to the award of contract, therefore notification should be accompanied by detailed reasons for the Contracting Decision given in accordance with Procurement legislation, for more information see the Procurement Toolkit.

## **Section D – Contract Formalities**

### **20. Contract Documents**

- 20.1 All Relevant Contracts/orders shall be in writing using the Council's Standard Terms and Conditions contained within the Procurement Toolkit as determined by the value and risk of the individual procurement. These may require the addition of those issued by a relevant professional body (e.g. JCT or NEC). Any other proposed contract documents must be in a form to be agreed by the Chief Legal Officer.

### **21. Mandatory Clauses**

- 21.1 Every Relevant Contract over £25,000 must include clauses on the following unless otherwise agreed by the Chief Legal Officer (or their representative):
- a) that the Contractor may not assign or sub-contract without prior written consent
  - b) any insurance requirements
  - c) health and safety requirements
  - d) ombudsman requirements
  - e) data protection requirements if relevant
  - f) that standards are to be met if relevant
  - g) Equalities and equal opportunities requirements
  - h) (where agents are used to let contracts) that agents must comply with the Council's contract Standing Orders relating to contracts
  - i) a right of access to relevant documentation and records of the Contractor for monitoring and audit purposes (if relevant).
  - j) Whistleblowing policy
  - k) Freedom of Information requirements
  - l) Prevention of Bribery, Fraud and Corruption.
- 21.2 The advice of the Chief Legal Officer must be sought for any of the following contracts:
- Those involving asset leasing arrangements
  - Those which are complex in any other way e.g. the purchase of complex software
  - Where it is proposed to use a supplier's own terms where the Total Value exceeds £25,000

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- Where the Council are collaborating with other contracting authorities
- The use of other contracting authorities for Framework Agreements
- Where there are intellectual property rights assigned to the Council.

### 22. **Contract formalities**

22.1 Agreements shall be completed as follows (subject to delegated financial limits or as otherwise advised by the Chief Legal Officer):

<b>Total Value</b>	<b>Method of Completion By:</b>
From £5,000 to £25,000	signature by two Officers
£25,001 to £500,000	signature by two Officers including Senior Officer
Above GPA Thresholds for Goods and Services	sealing by Chief Legal Officer
Above £500,000 for Works	sealing by Chief Legal Officer

In all contracts where a Deed is required (including where Parent Company Guarantees/Bonds are sought) the contract must be completed by sealing from the Chief Legal Officer.

All Contracts must be concluded before the supply of goods, provision of services or construction work begins, except in exceptional circumstances, and then only with the written consent of the Senior Officer. An award letter is insufficient.

22.2 The Officer responsible for securing the suppliers signature to the contract must ensure that the person signing for the other contracting party has authority to bind it.

### 23. **Sureties**

23.1 Sureties for the due performance of a works contract shall be required in all cases where the contract sum is estimated to exceed £500,000 or where the risk of supplier failure and/or the costs to re-procure are high, unless the Head of Finance and the appropriate Senior Officer otherwise decide. Where a surety is required, this must be stated in the Invitation to Tender so that all tenderers are aware of the requirement at this stage.

23.2 The Head of Finance and the Officer may require the provision of sureties in respect of any other contract.

23.3 Where sureties are required, the tender form shall require sureties to the extent or value of 10 per cent at least of the net cost of the works, (or at least 10% of annual expenditure for goods or services) shall be provided, either way of:-

- a) a deposit with the Council or their bankers of a sum of money (or approved securities); or
- b) a Parent Company Guarantee, Bond or Guarantee in a form approved by the Chief Legal Officer and acceptable to the Head of Finance or Financial Officer; or
- c) the joint and several guarantee of personal sureties approved by the Head of Finance or Financial Officer.

### 24. **Prevention of Corruption**

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- 24.1 The Officer must comply with the Bribery Act 2010, the Council's Anti-Fraud & Corruption Strategy Policy Statement together with any relevant Code of Conduct and must not invite or accept any gift, fee or reward in respect of the award or performance of any contract.
- 24.2 High standards of conduct are obligatory. Corrupt behaviour will lead to disciplinary action.
- 25. Declaration of Interests**
- 25.1 If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a pecuniary/prejudicial interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Chief Legal Officer. The Chief Legal Officer shall report such declarations to the Standards Committee.
- 25.2 Members should at all times comply with the relevant legislation and the Members Code of Conduct.
- 25.3 The Chief Legal Officer shall maintain a record of all declarations of interests notified by Members and Officers.
- 25.4 The Chief Legal Officer shall ensure that the attention of all Members is drawn to the Council's Members code of conduct.

## SECTION E - CONTRACT MANAGEMENT

### **26. Contracts Register**

- 26.1 A Council Contracts Register will be maintained by the Head of Procurement that provides a central point for contract data and information.
- 26.2 All contracts awarded on behalf of the Council that have a total aggregated value in excess of £5,000 must be recorded in the Council Contracts Register, using information contained in the Procurement Authorisation Document.
- 26.3 Officers responsible for completion of the Request for Quotation or Tender will be responsible for ensuring recording, authorisation and submission of the Procurement Authorisation Document to the Head of Procurement within 10 days of Contract Award.

### **27. Contract Monitoring and Management**

- 27.1 Contracts awarded by or on behalf of the Council must be monitored and managed throughout the contract term to ensure the Best Value delivery of the contracted goods, services or works in accordance with the contract requirement and standard.
- 27.2 Contract monitoring and management arrangements agreed during the procurement process will be determined by the complexity and risk associated with the contract, conditions in the relevant market and must consider both financial and quality aspects.
- 27.3 During the life of a Relevant Contract, the Officer or other person appointed for that purpose must monitor its operation in respect of;
- performance
  - cost
  - compliance with specification and contract
  - any Best Value requirements
  - user satisfaction and risk management

At the request of the Head of Procurement, the Officer must make a written report evaluating the extent to which the purchasing need and the contract objectives were met by the contract.

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### 28. **Contract Variations**

- 28.1 During the course of a contract, factors may arise that may result in the need to vary a contract. Senior Officers are empowered to investigate and negotiate potential variations to a contract after contract award, subject to the provisions of the Public Contracts Regulations.
- 28.2 Contract variations can be made by Senior Officers, subject to formal budget approval, in accordance with the scope of the original Contract as follows;
- i) Goods and services up to 10% of the original total contract value
  - ii) Works up to 15% of the original total contract value
- 28.3 All contract variations proposed to be in excess of the quoted percentages in 28.2 above, must formally consult with the Chief Legal Officer and the Head of Procurement as procurement rules and laws may apply.
- 28.4 Any changes deemed to be “substantial” may require a tender process for a new Contract.
- 28.5 All variations or changes that are agreed will need to comply with the Council and Cabinet Schemes of Delegation and these Contract Standing Orders.
- 28.6 Subject to the original provisions of the Contract, every extra or variation must be evidenced and authorised in writing by the Council Officer responsible for the Contract (or the agent acting on behalf of the Council) and a copy kept with the contract file(see 3.1.1 above). For all contracts exceeding £100,000, a copy of the variation must be forwarded to the Chief Legal Officer for filing with the original contract.

### **Section F – Extensions to Contract**

#### 29. **Extensions to Contract**

- 29.1 When extending a contract through an extension clause that is specifically allowed for in the original contract, reasons for the extension must be recorded and kept with the contract file and this must include a justification clearly setting out how the extension is securing best value for the Council, referencing cost, benchmarking, market information and performance and any other relevant factors. When extending a contract (originally allowed for) with a value exceeding £5,000, a Procurement Authorisation Extension Document must be completed and self-certified by the relevant Officer and then sent to the procurement mailbox.
- The Head of Procurement or Cabinet Member for this Service Area may from time to time require a report detailing the reasons for the proposed extension.
- 29.2 The maximum length of the extension should be explicitly stated in the original contract.
- 29.3 No other extensions to contract period may be made to contracts except when:-
- A Senior Officer in consultation with the Head of Procurement, Chief Legal Officer and Head of Finance agree the extension to secure Best Value. The reasons for the extension must be set out by the Senior Officer via the Procurement Authorisation Document and must include a justification for achieving Best Value with reference to cost, benchmarking, market information and performance and any other relevant factors.

### **Section G – Technical Amendments**

#### 30. **Technical Amendments**

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- 30.1 The Chief Legal Officer shall have the power to make technical amendments from time to time to make these Standing Orders consistent with legal requirements, Ministerial Guidance on Procurement matters, Government Directives, changes in Council structures and personnel and best practice after consultation with the Head of Finance, Head of Procurement and the Cabinet Member with portfolio responsibility for Procurement.

## Glossary of Defined Terms

"Award Criteria"	The criteria by which the successful Quotation or Tender is to be selected (see further Standing Order 14).
"Best Value"	The duty on local authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council and including any Council policies regarding Value for Money.
"Bond"	An agreement to underwrite loss resulting from a Contractor's failure: if the Contractor does not do what it has promised under a contract with the Council, the Council can claim from the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
"Candidate"	Any person who asks to, or is invited to submit a Quotation or Tender.
"Code of Conduct"	Any code regulating conduct of Officers as approved by Standards Committee
"Community Right to Challenge"	The rights contained in the Localism Act 2011 (Part 5, Chapter 2, sections 81-84) that allow communities to request that they deliver certain services currently provided by, or on behalf of, the Council.
"Contracting Decision"	Any of the following decisions: <ul style="list-style-type: none"><li>• withdrawal of Invitation to Tender</li><li>• whom to invite to submit a Quotation or Tender</li><li>• Shortlisting</li><li>• award of contract</li><li>• any decision to terminate a contract</li></ul>
"Contractor"	Any company firm or person who has been awarded a contract or from whom a quotation/tender has been accepted.
"Council Contracts Register"	The list of the Council's corporate Contracts Register providing data to aid the management, administration, scrutiny and audit of all Contracts entered into by the Council with a value exceeding £5,000.00 and further described in standing order 26
"GPA Procedure"	The procedure required by the GPA where the Total Value exceeds the GPA Threshold
"GPA procurement Threshold"	The threshold at which relevant public procurement directives must be applied if expected to be exceeded by the Total Value. The current thresholds for works, services and goods are contained in the Procurement Toolkit.
"Financial Officer"	The most Senior Officer representing the Head of Finance or designated by him/her to provide financial advice to the Senior Officer.

## Appendix 1

"Government Procurement Agreement" or "GPA"	Is a plurilateral agreement where the ongoing requirements for Contracting Authorities following the World Trade Organisation (WTO) Agreement on Government Procurement (GPA which came into force on 1st January 2021 for the UK as an independent party on 1 January 2021 which regulates the procurement of goods and services by the public authorities of the parties to the agreement such as the UK, based on the principles of openness, transparency and non-discrimination
"Head of Finance"	Persons nominated and acting validly with delegated authority on behalf of the Finance Director (Corporate Director of Finance and Assets) who is responsible for the administration of the Council's financial affairs under S.151 Local Government Act 1972.
"Head of IT"	The officer appointed to coordinate information technology activities across the Council or an officer designated by him / her to undertake this function.
"Head of Procurement"	The officer appointed to coordinate procurement activities across the Council or an officer designated by him / her to undertake this function.
"Invitation to Tender/Request for Quotation"	A document sent to suppliers inviting them to tender or quote for a particular contract.
"Nominated Suppliers and Sub-contractors"	Those persons specified in a main contract for the discharge of any part of that contract.
"Officer"	The officer designated by the Senior Officer to deal with the relevant contract.
"Open Procedure"	All Candidates are invited to bid in response to advertisement.
"Parent Company Guarantee"	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
"Procurement Authorisation Document"	The form issued by the Chief Legal Officer and Head of Procurement on which records of quotations or tenders should be kept.
"Procurement Toolkit"	Provides guidance of procurement processes and is located in the Procurement Section of the Council's Intranet.
"Procurement Policy"	The Council's policy setting out the principles which guides and direct decisions for its procurement activities and is located on the Procurement Section of the Council's Intranet.
"Quotation"	A quotation of price.
"Relevant Contract"	Contracts to which these Standing Orders apply
"Senior Officer"	A 'Senior Officer' is defined as Chief Executive, Corporate Directors, Directors and Heads of Service.
"Service Area"	Means a unit for the sole use of whom the purchase is intended
"Shortlisting"	Where Candidates are selected: <ul style="list-style-type: none"><li>• to quote or bid or</li><li>• to proceed to final evaluation.</li></ul>
"Social Value"	The duty to consider economic, social and environmental wellbeing and to consider whether to undertake any consultation under The Public Services (Social Value) Act 2012 in accordance with Council policy and guidance.

## Appendix 1

"Sub-Criteria"

Means any sub categories of the Award Criteria.

"Tender"

A Candidate's proposal submitted in response to an Invitation to Tender.

"Total Value"

The whole of the value or estimated value (in money or equivalent Value net of VAT) for a single purchase or disposal

- whether or not it comprises several lots or stages
- to be paid or received by the Council.

The Total Value shall be calculated as follows:

(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period;

(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;

(c) where the contract is for an uncertain duration by multiplying the monthly payment by 48;

(d) for feasibility studies: the value of the scheme or contracts which may be awarded as a result;

(e) for nominated suppliers and sub-contractors: the Total Value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.

(f) where an in-house service provider is involved, by taking into account redundancy and similar/associated costs

Reviewed May 2023



# Officer Employment Procedure Rules

## 1. Recruitment and Appointment

### (a) Declarations

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or the partner of such persons.
- ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (b) Seeking support for Appointment.

- i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

## 2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Head of Paid Service or chief officer (statutory or non-statutory) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

### (a) draw up a statement specifying:

- i) the duties of the officer concerned; and
- ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

**3. Appointment of Head of Paid Service, Chief Officers and Deputy Chief Officers**

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Sub-Committee of the Appointments Committee of the Council.
- (b) The Appointments Committee (or its sub-committee) of the Council will appoint the Head of Paid service and statutory and non-statutory chief officers
- (c) An offer of employment as Head of Paid Service or as a chief officer shall only be made where the Council or the Appointment Committee have notified the Director of Human Resources and Organisational Development of the name of the proposed appointee and any other relevant particulars and the Director of Human Resources and Organisational Development has notified every Member of the Cabinet of
  - (1) the name of the proposed appointee and any other relevant particulars and
  - (2) the period in 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 Director of Human Resources and Organisational Development and either
    - (i) the Leader has within that period notified the Council or the Appointments Committee (Sub-Committee) that he/she or any other Member of the Cabinet has any objection to the making of the offer
    - (ii) the Director of Human Resources and Organisational Development has notified the Council or the Appointments Committee (Sub-Committee) that no objection has been received from the leader or
    - (iii) the Council or Appointments Committee (Sub-Committee) is satisfied that any objection received from the Leader within the period is not material or is founded.

#### 4. **Joint Appointments**

- (a) The Council may, under Section 75 of the Health Act 2006 and associated regulations, establish a Joint Selection and Appointment Committee as a Joint Committee with Health Partners, to act as a selection and appointments panel to make joint appointments to officer posts at Chief Officer level and Deputy Chief Officer level within the Council and at an equivalent body within the Health body concerned.
- (b) The Director of Human Resources and Organisational Development will, subject to the approval of the Cabinet, establish protocols for “Joint Senior Executive Appointments” and for “Professional Practice and Conflict Resolution” that will govern the advertising, recruitment selection and appointments process.

#### 5. **Other Appointments**

- (a) **Officers below Chief Officer.** Appointment of officers below deputy chief officer (statutory and non-statutory) (and other than Assistants to Political Groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to Political Groups.** Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that political group.

#### 6. **Disciplinary Action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent Persons Panel.** No other disciplinary action may be taken in respect of any of those officers except in accordance with Standing Order 41 and the procedure referred to in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001.
- (c) Councillors will not be involved in the disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or enquiry into alleged misconduct.

**7. Dismissal of Head of Paid Service and Chief Officers**

- (a) Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or enquiry into alleged misconduct.
- (b) In accordance with the provisions of the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the full Council will be the responsible body for the approval of the dismissal of the Council's Head of Paid Service or Monitoring Officer or Chief Finance Officer
- (c) The process for such dismissal must be conducted in accordance with Standing Order 41 and by the undertaking of the procedure referred to in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England Regulations 2001, the Council
- (d) Other than in relation to the Council's Head of Paid Service or Monitoring Officer or Chief Finance Officer a notice of dismissal must not be given to a chief officer (statutory or non-statutory) until the Director of Human Resources and Organisational Development has been notified of the name of the officer proposed for dismissal and any other relevant particulars and the Director of Human Resources and Organisational Development has notified every Member of the Cabinet of
  - (1) the name of the person proposed for dismissal and any other relevant particulars
  - (2) the period in which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Director of Human Resources and Organisational Development and either
    - (i) the Leader has within that period notified the dismissor that he/she or any other Member of the Cabinet has any objection to the dismissal
    - (ii) the Director of Human Resources and Organisational Development has notified the dismissor that no objection has been received from the Leader or
    - (iii) the dismissor is satisfied that any objection received from the Leader within the period is not material or were founded.

Latest version: May 2023

# Petitions Scheme

## Swindon Borough Council

How to submit your petition and what happens next.

### 1 Petitions

1.1 The Council welcomes petitions as one way in which you can let us know your concerns. We set out below how the Council will respond to petitions that you send us.

### 2 What is a petition?

2.1 A petition is any communication that is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 names or signatures before we treat it as a petition. Whilst we like to hear from people who live, work or study in the Borough, this is not a requirement and we would take equally seriously a petition from, for example, 10 visitors to the STEAM museum on the facilities there.

### 3 What should a petition contain?

3.1 **There should be a clear statement of your concerns and what you want the Council to do.** This must relate to something which is the responsibility of the authority, or over which the Council has some influence. If you are not certain about what the Council does, please call our Committee and Member Services section on 07779 413886 and someone will be happy to assist you. Also, you can look at the guide on our website here: [How to petition the council | Swindon Borough Council](#).

3.2 It must have the name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an email address. When submitting an e-petition you will be asked for both. Without these details we cannot accept it.

3.3 It needs the names of at least 10 people (which can include the petition organiser). The minimum information requested for a petition in paper form is the person’s name, postcode and house number. Full address and email addresses are required to login to sign an e-petition on the Council’s e-petition platform. This same level of information is requested to be made available in relation to petitions conducted through alternative e-petition platforms. The

Petitions Officer, in consultation with the Political group leaders, may accept a petition that does not contain all this information should he / she consider this appropriate. We will only print the name and postcode in any Council reports. This information will be used as a safeguard against bogus petitions.

- 3.4 Where the petition is in paper form, this can include an actual signature from each petitioner, but that is not essential. Where the petition is in electronic form, on the Council's e-petition platform, a list of the names of the petitioners will be displayed. You may include the addresses of petitioners on a paper petition, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a problem that affects a precise geographical area.
- 3.5 If the petition is submitted electronically, or if the written petition contains an email address, the Council may use this to inform all petitions of the action the Council has taken.
- 3.6 If you want your petition to be debated at a meeting of the Council ("A Petition for Debate"), or to trigger a public meeting of the Overview and Scrutiny Committee at which a specific officer will be required to report ("A Petition to hold an Officer to Account"), your petition will need to contain a higher number of signatories or petitioners (see below).
- 3.7 Where a petition relates to a matter that is within the responsibility of another public authority, we will ask the petition organiser whether they would like us to redirect the petition to that other authority. For example, if your issue is the responsibility of the police, the NHS etc, we will ask if you want us to send it to their governing body.
- 3.8 Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision.
- 3.9 Where a e-petition is collected via a platform other than the one provided by the Council, the petition organiser must send a file to the Petitions Officer (via [CommitteeServices@swindon.gov.uk](mailto:CommitteeServices@swindon.gov.uk)) with the same information, namely: each person's name, choice, email address, address and date signed. It is for the petition organiser to ensure in advance that this information can be provided.

#### 4 How do you send in a petition?

- 4.1 The Council already undertakes many consultations throughout the year on planning matters or over the opening or closing of schools. Where you submit a petition in response to such a consultation,

please address it to the return address set out in the invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered. If you are not certain about where to send the petition, please email [CommitteeServices@swindon.gov.uk](mailto:CommitteeServices@swindon.gov.uk) or call us on 07779 413886.

- 4.2 We have appointed the Chief Legal Officer as the ‘Petitions Officer’, who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please send paper petitions to –

The Chief Legal Officer (‘Petitions Officer’)  
Swindon Borough Council  
Civic Offices  
Euclid Street  
Swindon  
SN1 2JH  
Or to [CommitteeServices@swindon.gov.uk](mailto:CommitteeServices@swindon.gov.uk)

- 4.3 Alternatively a ‘request for petition’ can be made via the Council’s e-petition facility. When received, the Petition Officer will review the request and may suggest amendments before making it available for signature.

- 4.4 The Petitions Officer will ensure that each petition is acknowledged to the petition organiser and entered on the authority’s petitions website. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 07779 413886.

## 5 Types of Petition

- 5.1 There are five different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit –

### Consultation Petitions

- 5.1.1 These are petitions in response to an invitation from the authority for your views on a particular proposal. Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the proposal.

### Statutory Petitions

- 5.1.2 The Government requires the Council to consider some petitions in a particular manner, for example a petition for a

review of parish councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

#### Petitions for Debate

- 5.1.3 If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,500 signatories or petitioners (this is reduced to 750 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 or 3 wards within the Council's area or 350 signatories or petitioners for a single ward issue within the Council's area). If a petitioner is of the view that a petition is either a single ward issue, or affects no more than 2 or 3 wards, the petitioner should contact the Petitions Officer before submission of the petition in order to see whether this is also how it will be viewed by the Petitions Officer. Contact us at either of the above addresses or by telephone at 07779 413886.

#### Petitions to Hold an Officer to Account

- 5.1.4 If you want your petition to be considered at a meeting of the Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 750 names. The Council has determined that such petitions must relate to the Chief Executive, a Corporate Director, a Director or a Head of Service of the authority.
- 5.1.5 Where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of People, Performance and Engagement in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.

#### Ordinary Petitions

- 5.1.6 These are petitions that do not come within any of the above specific types. Such petitions will, generally, be referred to an appropriate responsible officer for acknowledgement and to deal with under delegated authority. Please note that petitions that raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act



2000 and will be reported to the Standards Committee, rather than considered under this Petitions Procedure.

## 6 The Petitions Website

- 6.1 The authority has established a petitions website.
- 6.2 When a request for an e-petition is submitted via the e-petition facility on the Council website, this will be made live for signature by the Petitions Officer within 20 working days of receipt, unless clarification is required on the wording from the petition. If the matter falls outside the petitions scheme, the request for a petition will be rejected and the petitioner will be informed why.
- 6.3 As soon as it is decided who the e-petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 10 working days of that consideration.
- 6.4 E-Petitions are presented on the petitions website in the order in which they are received. All petitions are kept on the website for at least 2 years from the date of receipt.

## 7 The Role of Councillors

- 7.1 When a petition is received it will be reported to the relevant decision-maker(s) within the Council (Cabinet Member, Cabinet, Officer, or Regulatory Committee) or the Overview and Scrutiny Committee.
- 7.2 When a petition is received which relates to a local matter (particularly affecting specific wards) the Petitions Officer will also send a copy of the petition to each relevant Ward Councillor(s) at the same time as acknowledging receipt of the petition to the petition organiser. The relevant Ward Councillor(s) will be invited to attend and to address any meeting at which the petition is considered for up to 5 minutes, immediately after the petition organiser.

## 8 What happens when a petition is received?

- 8.1 Within 10 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

- 8.2 In some cases, the matter may be able to be resolved by getting the relevant Cabinet Member or officer to take appropriate action. For example, where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer or the responsible officer will ask the petition organiser whether s/he considers that the matter is resolved.
- 8.3 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will, within 10 working days of receipt of the petition, provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration. If this involves a meeting of the Council, this will include information on when and where this will take place and will invite the petition organiser to attend that meeting and to address the meeting for up to 5 minutes on the issue covered by the petition. The petitioner may appoint another person, who is also a signatory, to speak on their behalf. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.
- 8.4 Whilst we are committed to dealing with petitions promptly, a petition must be received before noon of the tenth day preceding the day of the meeting to which it is to be reported. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be considered properly, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body.

## 9 What happens to a Consultation Petition?

- 9.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or policy.
- 9.2 The petition will be reported to person or body who will take the decision on the proposal or policy at the meeting when they are to take the decision. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the Terms of Reference of Committees and Sub-Committees.
- 9.3 Where the petition relates to a matter that is within the delegated power of an officer, s/he will not exercise those delegated powers but will automatically refer the matter up to the relevant Cabinet Member for decision (using the Cabinet Member Decision Note process as set out in of the Constitution).

- 9.4 Where the petition relates to a matter that is within the delegated powers of an individual Cabinet Member, s/he may decide not to exercise those delegated powers but to refer the matter to Cabinet for decision.
- 10 What happens to a Statutory Petition?
- 10.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.
- 11 What happens to Petitions for Debate?
- 11.1 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council, which are not convened to consider the subject matter of the petition.
- 11.2 As set out below, the petition organiser, or their appointed deputy, will be invited to address the meeting for up to 5 minutes on the subject of the petition.
- 11.3 The petition organiser will be notified of the outcome of the debate and of any follow-up actions that are agreed by the meeting.
- 12 What happens to a Petition to Hold an Officer to Account?
- 12.1 Petitions to hold an officer to account will be reported to the next convenient meeting of the Overview and Scrutiny Committee.
- 12.2 In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions that they would like put to the officer at the meeting. These questions will be provided to the Chair of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.
- 12.3 At the meeting, the Chair will invite the petition organiser to address the Committee for a maximum of 5 minutes on the issue, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chair may invite the petition organiser to suggest questions for him/her to put to the officer.

- 13 What happens to an Ordinary Petition?
- 13.1 The Petitions Officer will arrange for each Ordinary petition to be reported to the appropriate Cabinet Member and/or Corporate Director or appropriate officer having the delegated authority to deal with the matter, the subject of the petition, or reported to the next convenient meeting of Cabinet, of Council or of a Committee or Sub-Committee of Council that has the power to take a decision on the matter.
- 14 In the event that a petition is referred to a meeting, when the matter to which the petition relates is considered –
- 14.1 Petitions that do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise<sup>1</sup>. A maximum of 30 minutes will be allowed at each meeting for considering all such petitions and consideration of the contents of any petitions not reached in the time allowed will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.
- 14.2 In special circumstances the Chair may ask the meeting to suspend standing orders to permit the debate on petitions to extend beyond 30 minutes.
- 14.3 Any petitions relevant to particular items of business, such as petitions relating to planning applications or proposed traffic regulation orders, will be taken together with that item of business, in the normal order of business.
- 14.4 The decision-taker or the Chair of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser (or deputy) to address him/her for up to 5 minutes. The Cabinet Member/Chair may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to 5 minutes (each). The Cabinet Member/Chair will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body or committee. Where the matter is to be determined by a Cabinet Member, s/he will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and

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<sup>1</sup> *In practice, where one person has submitted more than one petition, his/her second petition will be taken after consideration of the first petition submitted by each other person, and so on.*

report back, or to refer it up to a meeting of Council, Cabinet or a Committee of the Council for determination.

14.5 Within 10 working days of the consideration of the petition by the relevant Cabinet Member or Council body, the Petitions Officer (or, in the case of Ordinary petitions, the appropriate Cabinet Member, Corporate Director or other appropriate officer) will notify the petition organiser of the Cabinet Member's / Council body's decision and advise him/her that if s/he is not satisfied with that decision, s/he may require the matter to be reported to the next convenient meeting of the Overview and Scrutiny Committee for review.

## 15 Appeal to the Overview and Scrutiny Committee

15.1 If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to the Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.

15.2 Within 10 working days of receipt of intention to appeal, the Petitions Officer will notify the petition organiser of the time, date and place of the next convenient meeting of the Overview and Scrutiny Committee and will invite the petition organiser (or deputy) to attend the meeting and to address the Committee for up to 5 minutes on why he considers that the authority's decision on the petition is inadequate.

15.3 At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Cabinet Member's / council body's response was insufficient. The Overview and Scrutiny Committee may not over-ride the Cabinet Member or Council body, but the Cabinet Member / Council body must consider any recommendations made by the Overview and Scrutiny Committee.

## 16 The Role of the Petition Organiser

16.1 The petition organiser will receive acknowledgement of receipt of the petition or the request for an e-petition within 10 working days of its receipt by the authority.

16.2 Where the petition is not accepted for consideration (see Paragraph 17 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

- 16.3 Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 10 working days of receipt by the authority or the completion of an e-petition as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 5 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.
- 16.4 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.
- 16.5 The petition organiser will be informed regularly by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.
- 16.6 The petition organiser may notify the Petitions Officer of his / her intention to appeal to the Overview and Scrutiny Committee against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee for up to 3 minutes as to why s/he considers that the authority's decision on the petition was inadequate.

17 Petitions which will not be reported

Duplicate Petitions

- 17.1 Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, the petition organisers will be asked to combine the petitions and for one petition organiser to address the meeting. If this is unacceptable to the petition organisers, the Petitions Officer will determine which should proceed and who should be invited to address the relevant meeting.

Repeat Petitions

- 17.2 A petition will not normally be considered where it is received within 6 months of another petition being considered by the authority on the same matter.

Rejected Petitions

- 17.3 A petition will not be reported and an e-petition request will be rejected if in the opinion of the Petitions Officer, it:

- Contains intemperate, inflammatory, abusive or provocative language,
- Is rude, defamatory, scurrilous or vexatious.
- Is identical or too similar to a petition submitted in the past 6 months.
- Discloses confidential or exempt information, including information protected by court order or government department.
- Discloses material which is otherwise commercially sensitive.
- Provides information relating to the personal and private lives of individual officers of public bodies or makes criminal accusations.
- Contains advertising statements.
- Refers to an issue which is currently the subject of a formal Council complaint, Local Ombudsman complaint or any legal proceedings.
- Relates to a specific issue where there is already a right of appeal.
- Relates to a specific and individual planning or licensing application or decision. Such 'petitions' will be referred to the relevant Officer or Regulatory Committee in accordance with existing procedures for representations.
- Does not relate to something which is the responsibility of the authority, or over which the authority has some influence.

Latest version: July 2023

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## **Part 5**

### **Codes and Protocols**

Members' Code of Conduct

Officers' Code of Conduct

Monitoring Officer Protocol

Councillor Role Definitions

Guidance to Councillors on Dealings with the Media

Protocol of Member / Officer Relationships

Members Planning Code of Good Practice

Local Code of Corporate Governance

Recording, Photography and Use of Social Media Protocol and Guidance

Public Question Time at Council Meetings Protocol and Guidance

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## SWINDON BOROUGH COUNCIL

# MEMBERS CODE OF CONDUCT

July 2012

### Section 28 Localism Act 2011

This Code of Conduct is, when viewed as a whole, consistent with the following principles set out in the Localism Act 2011 (as revised to be in accordance with the Fourteenth Report of the Committee on Standards in Public Life published in January 2013):

<u>Principle</u>	<u>Description</u>
<i>Selflessness</i>	Members should act solely in terms of the public interest.
<i>Integrity</i>	Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Members should be truthful.
<i>Leadership</i>	Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**Reviewed February 2023**

## Part 1 – General Provisions

### Introduction and interpretation

1. (1) This Code applies to you as a member of Swindon Borough Council (“the authority”).
- (2) This Code complies with section 28 of the Localism Act 2011 and is consistent with the principles set out in that section and which are listed in the table at the front of this Code.
- (3) It is your responsibility to comply with the provisions of this Code.

In this Code:

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees.

“member” refers to members and co-opted members of the authority.

### Scope

2. (1) This Code sets out the conduct that is expected of you as a member of the authority when you are acting in that capacity.
- (2) Where you act as a representative of your authority:
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

3. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause your authority to breach the Equality Act 2010 or other relevant equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority’s code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not:
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, 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 advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
  
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
  
6. You:
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority:
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
  
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
 where that officer is acting pursuant to his or her statutory duties.
   
  
 (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2 – Interests

### Personal Interests

8. (1) You have a personal interest in any business of your authority where either:
  - (a) it relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - (ii) any body:
    - (aa) exercising functions of a public nature;
    - (bb) directed to charitable purposes; or
    - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.
- (2) In sub-paragraph (1)(b), a relevant person is:
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which solely relates to a body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **Prejudicial interests generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of:
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to Overview and Scrutiny Committees**

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### Part 3 - Registration of Members' Interests

#### Registration or Disclosure of Members' Interests

13. (1) Subject to paragraph 15, you must, within 28 days of:
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests, maintained under section 29 of the Localism Act 2011, details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer, together with any disclosable pecuniary interest which you have, or you are aware that your spouse or civil partner (or person with whom you are living as husband and wife or civil partner) may have.
- (2) Failure to register or disclose any disclosable pecuniary interest in accordance with section 30(1) or 31(2), (3) or (7) of the Localism Act 2011, or participating in any discussion or vote in contravention of section 31(4) of the Localism Act 2011, or taking any steps in contravention of section 31(8) of the Localism Act 2011, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.
- (3) Where you have a disclosable pecuniary interest which is a sensitive interest under paragraph 15 below, you must disclose not the sensitive interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.



- (4) You must, within 28 days of becoming aware of any new or change in a registered personal interest, register details of that new or changed interest by providing written notification to your authority's monitoring officer.

### **Disclosable Pecuniary Interest**

14. (1) A disclosable pecuniary interest is as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ('the Regulations') and is as follows:
- (a) Any employment, office, trade, profession or vocation carried on for profit or gain.
  - (b) Any payment or provision of any other financial benefit (other than from the authority) made or provided within the relevant period as defined in the Regulations in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
  - (c) Any contract which is made between you and/or a person mentioned in paragraph 13 above (or a body in which you and/or such a person has a beneficial interest) and the authority:
    - (i) under which goods or services are to be provided or works are to be executed; and
    - (ii) which has not been fully discharged.
  - (d) Any beneficial interest in land which is within the area of the authority.
  - (e) Any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer.
  - (f) Any tenancy where (to your knowledge):
    - (i) the landlord is the authority; and
    - (ii) the tenant is a body in which the relevant person has a beneficial interest.
  - (g) Any beneficial interest in securities of a body where:
    - (i) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
    - (ii) Either:
      - (aa) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
      - (bb) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### **Sensitive interest**

15. (1) Where you consider that you have a sensitive interest (whether or not a disclosable pecuniary interest), and your authority's monitoring officer agrees, if the interest is entered in the authority's register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32 (2) of the Localism Act 2011).

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer a sensitive interest, notify your authority's monitoring officer asking that the interest be included in your authority's register of members' interests.
- (3) In this Code, "sensitive interest" means an interest, the nature of which is such that you and your authority's monitoring officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

# Swindon Borough Council

## Code of Conduct

[www.swindon.gov.uk](http://www.swindon.gov.uk)



Making Swindon a great place to work

# Why you must read our Code of Conduct

Swindon Borough Council expects every employee to behave in a highly professional manner.

That's why you need to read and understand the Code of Conduct as it outlines the standards we expect from you while you are at work. It also provides examples of the right and the wrong behaviour should you be unsure how to act in a particular situation.

Once you have read the Code of Conduct you need to confirm that you have done so. Please complete the details below. If there are parts of the Code that you do not understand, ask your line manager to explain it or contact Human Resources on ext 4343 or 0800 032 5642.

I have read and understood the Swindon Borough Council Code of Conduct.

Name

.....

Signature

.....

Date

.....

Once you have completed and signed the tear off slip, please pass it to your line manager to be forwarded to Human Resources. Thank you.

## **Data Protection**

The information you provide will be used to store on file and may be shared with other service areas for statistical purposes.

# Code of Conduct

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# 1. Introduction

## This Code of Conduct will:

- help you to understand how you can fulfil your ethical obligations in performing your role
- set clear expectations for your conduct as a public employee in the Council and
- provide guidance to help you deal properly with ethical issues you may encounter in your work.

## 1.1 Overview

As an employee of the Council, you are involved in complex issues associated with the provision of community services. The way you carry out your duties must promote and maintain public confidence and trust in the work of the Council.

Although there is no single set of rules that can answer all ethical questions, the Council's Code of Conduct provides an ethical framework for the decisions, actions and behaviour of your work as a public official. If you find yourself in a situation where there is no clear agreement on what is 'the right thing to do', you can:

- refer to this Code of Conduct, Ethical Decision Making Guidance (page 23) and/or any applicable guidelines, policies and procedures
- discuss the situation with your line manager and use the Quick Guide to work through the issues
- contact Human Resources, Audit or Law and Democratic Services for assistance.

## 1.2 What is the Code of Conduct?

This Code of Conduct is designed to provide guidance about what is expected from you in your daily work and in your dealings with elected members, colleagues and the public.

All Council employees must be familiar with the Code of Conduct. This document forms part of your contract of employment and you are required to comply with its contents. Failure to do so may result in disciplinary action, which could include dismissal.

For this reason, it is important that you read the **whole** of this document and ask your manager or supervisor for clarification if there is anything in it that you don't understand and needs explaining. Once you have signed and returned the acceptance section on the flap of the back cover, it will be assumed that you understand its contents and agree to comply with your contract of employment and all the rules and policies, etc that it refers to.

If you have management responsibilities, you need to ensure that employees reporting to you have access to the Code and are given opportunities for training where appropriate.

The basis for this revised document is: the Local Government Act 2000; the working party comprising the Local Government Association, the Employers Organisation and the public sector unions; and the nationwide consultation co-ordinated by the Office of the Deputy Prime Minister (ODPM).

### 1.3 Who does the Code apply to?

The Code applies to all employees and anyone acting as an employee of Swindon Borough Council. Inevitably, some of the issues covered will affect some employees more than others.

Although the Code does not directly apply to contractors, consultants or volunteers, the Council's continued association with these individuals and/or their organisations requires them to observe and comply with the Code. However, in some instances, compliance may be a condition of the contract between a third party and the Council, in which case their compliance with the Code would be binding. Elected Members have their own Code of Conduct, available on the Council's intranet site.

Breaches of the Code and standards set by the Council may result in disciplinary action. **If you are unsure about any aspect of the Code, please raise it with your manager or supervisor at the earliest opportunity.**



## **The Council has a responsibility to ensure that:**

- You are clear about what is expected of you
- You have a safe and healthy working environment
- You have a work environment that is free from discrimination, harassment or bullying
- You are offered relevant training and development opportunities
- You have the opportunity to choose to be represented by a Trade Union in appropriate circumstances as determined by Council policy

## **1.4 What can you expect from the Council?**

The Council exists to provide services to the public. All these services are delivered by people - the Council's employees. For the Council to run efficiently, it's vital that you understand your work and your responsibilities whilst at work. You also need to understand how your activities outside work may affect your ability to do your work during working hours.

So that you are clear about your responsibilities, the Council has various rules, procedures and policies that affect all employees. Some of these originate from European Law, others from UK Law implemented by Central Government, and others that are specific to the Council. There may also be very particular rules, requirements or codes that apply to your job or work area which you will have been told about before you start work. You will be advised should these rules or procedures change during your working life with the Council.

## **1.5 What does the Council expect from you?**

**In summary, you are required to:**

- Attend work in a condition where you are able to carry out your duties safely and effectively.
- Act honestly.
- Act with dignity and treat all others with dignity and respect.
- Work in accordance with the terms and conditions of your contract of employment and job description.
- Understand and apply the Council's rules, policies and procedures.
- Be committed to delivering quality services to service users.
- Understand and act in accordance with the Council's vision and values, policy and procedures.



## **1.6 Where can you find details of the policies and standards that apply to you?**

The various sections of this document summarise the Council's key policies and procedures in respect of behaviour and the ways in which you are required to work.

If you are affected by any of the policies contained in this document or you are in any doubt about how they apply to you, you should always refer to the detailed rules or the policies and procedures in full in any of the following ways:

- You can ask for a paper copy from your line manager or supervisor
- You can contact the HR First Response Team on extension 4343 or 0800 032 5642 and either ask for it to be emailed to you or for a paper copy
- Through your New Starter induction process
- You can find the information on the Council's Intranet site, in the Employment section. If you are reading this code on the Intranet, where a relevant document is indicated as available on the Intranet, it can be found by simply clicking on the reference <http://sbcint/employment.htm>

## **1.7 What happens if the content of the Code changes?**

The Council will take every reasonable step to ensure that the Code of Conduct is kept up to date. The most up to date version will always be the one that is available on the Intranet site. Changes to the Code will be consulted on with Trade Unions and widely communicated.



## 2. Standards of Behaviour

### For example:

- Offensive, abusive, belittling or threatening behaviour directed at an individual or group is unacceptable conduct
- It is not acceptable to restrict access to training or promotional opportunities on the basis of sex, sexual orientation, marital status, disability, race, colour, nationality or national origin, religion, age, address or union membership status
- You should make any reasonable adjustment to enable a person with a disability to perform a job
- When dealing with aggressive or agitated customers, you should deal with the person without aggression or bias
- You must not engage in any behaviour of a sexual nature that is unwelcome as it is unacceptable and unlawful conduct. For example leers, suggestive notes or e-mails, innuendo, or touching.

### 2.1 Workplace Behaviour and Personal Conduct

You should treat colleagues, elected Members and members of the public with dignity and respect.

#### You should:

- Ensure that your conduct is not inappropriately discriminatory or harassing to others.
- Ensure your behaviour and performance meets work place standards at any time that you are representing the Council or are likely to be identified or associated with your role as a public official (whether or not you are 'on duty' at the time).
- Make sure you are familiar with and follow the Council's policies on equal opportunities and the prevention of discrimination and harassment.
- Make reasonable efforts to develop and maintain appropriate skills in valuing diversity.

### 2.2 Grievances

If you have a concern or grievance in relation to certain aspects of your employment then you can use the Grievance procedure. This provides an opportunity for you to formally lodge a grievance that has not been resolved through informal means. Any employee who submits a grievance in good faith will not suffer any adverse consequences as a result of submitting the grievance.

### 2.3 Reporting Absence

If you are unable to attend work for any reason, you must advise your manager as soon as possible. In the specific case of sickness absence, you must advise your manager **within half an hour of your normal start time (at least)** to enable your manager to make alternative arrangements for your work to be covered. Further information is available in the Council's Sickness Absence Policy.

## 2.4 Misconduct

The Code of Conduct guides and assists employees acting in good faith. If, in your decisions, actions or conduct you wilfully fail to comply with the standards outlined in the Code of Conduct, you will be guilty of misconduct and are likely to fall subject to disciplinary action, which could include dismissal.

## 2.5 Learning and Development

You are obliged to participate in relevant learning and development opportunities to develop the skills and knowledge necessary to perform your job and to enhance the delivery of services to the community.

You should seek feedback on your work performance and reasonably engage in any plans for improving your work performance.

## 2.6 Alcohol and Drugs

You must not consume alcohol, use illicit drugs or other illegal substances while at work. You must also ensure that the use of any of them does not adversely affect the work performance and safety of yourself or others, and does not bring the Council into disrepute.

Similarly, if you are taking legally prescribed or over-the-counter drugs, you must ensure that their use does not adversely affect your work performance and the safety of yourself and others.

If you are a supervisor or manager, you will need to consider the options available for assisting employees who are required to take legally prescribed drugs and whose level of performance has been impaired. In these circumstances, a risk assessment should be undertaken with the assistance of the Occupational Health service.

Further guidance is available in the Council's Substance Misuse Policy and Guidance.

### **For example, if you are:**

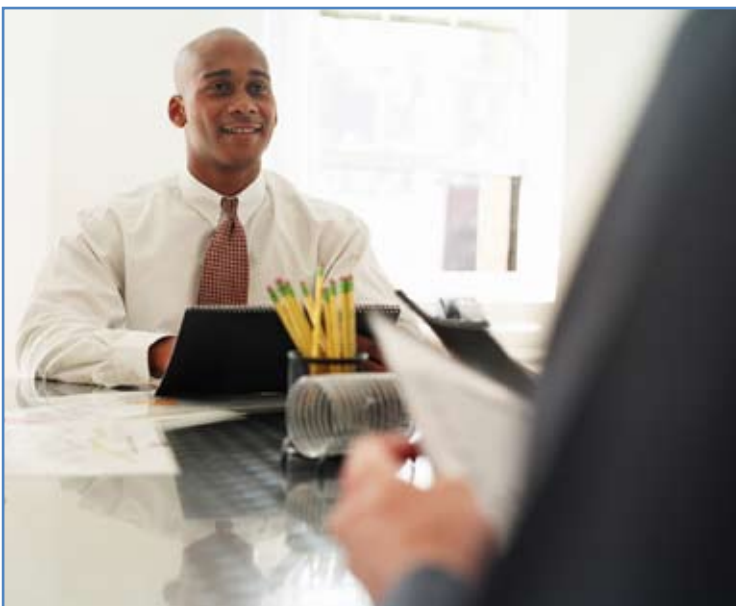
- On call, you should not consume alcohol in the event that you are recalled to work.
- Taking prescribed medication, you should ensure you are well aware of any side effects that may impair your ability to do your job.

## 2.7 Health, Safety and Well-Being

All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to the Council's buildings and premises.

These responsibilities are identified in the Council's Health and Safety policy. In summary, the policy states that you must:

- Look after the health and safety of yourself and others who may be affected by your actions or failure to carry out certain actions at work.
- Co-operate with your manager, attend training sessions, carry out reasonable instructions.



# 3. Protecting the Council and its Employees

## For example, you should not:

- Use your status or position to obtain a transfer, promotion, advancement or appointment for yourself or another person or to improperly influence a selection process
- Falsify or improperly edit or destroy official records
- Seek to obtain a more favoured status for a funding application or for services to a particular stakeholder
- Instruct an employee to do any of the above.

## 3.1 Other Employment

In some instances, your contract of employment may prevent you from undertaking other employment without the written permission of your manager. If this is the case, it will be detailed specifically in your written statement of particulars (what you may refer to as your 'contract').

It is important that you ensure that any additional employment does not conflict with the interests of the Council or affect your ability and credibility to do your job. You must also ensure that Council time and/or resources are not utilised in connection with any approved private employment.

If in doubt, the best thing to do is to discuss the circumstances with your manager. Further guidance is also available in the Council's Additional Employment Policy.

## 3.2 Use of Authority

You should not use your official position, status, powers or authority to seek to improperly influence a decision or action.

You are expected to provide honest, impartial and comprehensive advice regardless of your personal assessment on a matter. If your personal views conflict with the performance of your official duties or if you believe that you cannot act impartially, you should contact your line manager and attempt to resolve the conflict.

When requested, you are expected to provide Members, the Chief Executive, line managers and co-workers with advice which is frank, independent, based on an accurate representation of the facts and as comprehensive as possible.

When exercising a discretionary power, you should ensure that the power is being used properly, impartially, equitably and is consistent with relevant legislation, delegations, procedures or guidelines. In exercising any power associated with your employment, you must ensure that you are either statutorily authorised to do so or that you have been delegated the power by a person with the necessary authority to issue the delegation.

**While use of public resources for non-official purposes may be permitted under relevant Council guidelines, managers should ensure that the use:**

- Does not impact on the performance of duties and tasks
- Is not for any unacceptable or unlawful purpose
- Is not related to any private commercial work or income-generating activity
- Does not erode public confidence in the Council
- Does not hinder the work of the Council
- Does not expose the Council to unintended legal liabilities
- Is approved by the Chief Executive or delegate if any cost from the use of property or facilities is incurred, or income derived.

### 3.3 Conduct Outside Working Time

Generally, what you do outside work is your own concern, but you should avoid doing anything that might adversely affect the reputation of the Council or bring the Council into disrepute. In your official capacity (as a Council employee) or personal capacity, you must not allow your personal interests to conflict with the Council's requirements or use your position to improperly confer an advantage or disadvantage on any person. If you are not sure whether or how this may affect you in your Council role, speak to your manager. If you act contrary to a caution provided by your manager, you may find yourself subject to disciplinary action.

### 3.4 Criminal Charges and Convictions

The Council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act applies and the rehabilitation period has expired. In some circumstances, Criminal Records Bureau checks are conducted on all successful applicants for certain positions in the Council.

Once you are an employee, you must notify the Council in writing if you are charged with any offence or if you are convicted of any offence. If you are charged with an offence, the notice must be given immediately after you are charged (ie. next working day). If you are convicted of any offence, the notification must be given immediately after you are convicted (ie. next working day). It should be noted that the term "conviction" includes a finding of guilt, regardless of whether or not a conviction is recorded. Failure to notify the Council in either case will constitute grounds for disciplinary action.

### **3.5 Use of Council Property, Facilities and Equipment**

Council facilities are to be used for the Council's business and for no other purpose unless you have your Director's (or their nominees) permission beforehand.

Reasonable personal use of telephones, photocopiers, computers and faxes is allowed provided you have been authorised to do so by your manager. However, no private work may be carried out in the Council's time, or on the Council's premises or with the use of the Council's equipment.

The Council allows reasonable, non-official use of internet and email, as long as individual or service performance is not compromised or adversely affected as a result. Your line manager can provide you with clarification as to what constitutes reasonable, non-official use. However, as a general rule, such use should be restricted to outside of working hours, during lunch breaks etc.

### **3.6 Dealing with the Council's Money**

All employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

Should you have responsibility for budgets and/or purchasing, you must ensure that you understand and comply with the Council's Standing Orders and financial regulations etc.

When committing Council money, you must ensure that there is an approved budget for such expenditure and that the expenditure is within the limits that you are personally authorised to incur.

Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles within the Council.

You must declare any financial interest, whether direct or indirect, that you or your partner may have in any contract or proposed contract with the Council. You should also consider declaring non-financial interests, for example, where you do voluntary work for an organisation in receipt of a grant from the Council. If you are in any doubt then you should make a declaration.

### 3.7 Conflict of Interest

If a conflict occurs between your private interests and public duties you must resolve the conflict in favour of your public duties. You can refer to Council procedures or guidelines for advice in analysing, declaring and registering conflicts of interest.

You must advise your manager in writing of any personal or immediate family private interests that may give rise to a conflict of interest with your official duties, particularly if you are involved in making decisions affecting contracting, tendering or regulatory functions.

You should comply with any reasonable request from the Chief Executive to provide information relating to your personal interests or the interests of a dependent or spouse.

#### **Examples of conflicts (or perceived conflicts) between personal interests and public duties that should be declared and in some cases avoided include:**

- Employees in positions that could influence or be perceived to influence, funding allocations, accepting appointments to executive or management positions in organisations that receive or seek to receive funding from the Council.
- Staff who have access to computer databases of customers\updating their own personal records or those of close relatives.
- As a purchasing officer liaising with a supplier who employs one of your close relatives.
- Employees being contracted to provide services to the Council outside of their paid employment.
- Generating work which involves travel to provide an opportunity to visit friends.
- A supervisor who is in a position to approve higher duties or provide other benefits to a subordinate where a close personal relationship exists (such as a partner or family member or close personal friend).
- Involvement with an interview panel when a relationship exists with one of the applicants.



- Small low value gifts such as flowers, a box of chocolates, diaries or similar items that may be used at work or shared with colleagues, may be accepted providing they are declared and recorded in the Register of Interests held by the Monitoring Officer.
- Other non-work related gifts (particularly drinks or hospitality etc) must not be accepted under any circumstances.

### 3.8 Gifts and Hospitality

The Local Govt Act 1972 states that an employee shall not “under colour of his office or employment accept any fee or reward other than their proper remuneration (i.e. salary/ pay)”

Should you be placed in a position where refusal of a gift would cause offence (this may be particularly relevant around Christmas and other festivals) it is suggested that consideration be given to passing the gift to the Mayor for use in relation to his/her charity.

If you are in any doubt, you should seek the guidance of the Council’s Monitoring Officer, or the Head of Internal Audit before accepting any gifts or hospitality offered.

### 3.9 Sponsorship

Where the Council sponsors an event or service, an employee, or any partner, spouse or relative must not benefit from the sponsorship. Employees must seek guidance from their manager if they are involved with any event or service that the Council proposes to sponsor.

### 3.10 Political, Professional and Trade Union Activity

You should ensure that your right to engage in political or professional activities does not result in an actual or perceived conflict of interest with your official duties with the Council. You should ensure that you are able, and be seen to be able, to remain unbiased in the performance of those duties.

Council employees serve the Council as a whole and in carrying out your work you must be politically neutral, ensuring that individual rights of all elected Members are respected. In your capacity as a Council employee, you should not attend meetings of political groups unless specifically authorised by the Chief Executive or your Group Director or Director. Such neutrality does not mean that you cannot be a member of a political party.

If you are a member of a profession, you are expected to uphold the standards of performance and conduct set by the relevant professional association and this Code of Conduct. However, it is noted that there can be exceptions to this where there is legislative authority to do so. If you believe a conflict exists between your official role and the standards of your profession, you must raise your concerns with your line manager.

If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the Council. Provisions relating to Facility Time to undertake official union roles are outlined in the Council's Facility Time Agreements.

### **3.11 Information Disclosure and Confidentiality**

As a Council employee, you may obtain information that has not been made public and is still confidential. You must never disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required to by law.

You must not prevent another person from gaining access to information to which that person is entitled by law. You must not disclose confidential information for your own personal use or for use by anyone else known to you, or to the disadvantage or the discredit of the Council or anyone else.

You must always observe the provisions of the Data Protection Act 1998, the Freedom of Information Act 2000 and the Council's procedures for the release of personal information held about other employees or members of the public. Breach of confidentiality may be considered a disciplinary offence, which could result in dismissal.

When you leave your employment with the Council, you must still respect the confidentiality of official information that may have been available to you in the course of your duties and not use this information for private, commercial or political gain.

You must obtain permission from the Chief Executive or their delegate before publishing or disclosing any articles, processes or materials that you have produced as part of your employment.

You must ensure that consultants and contractors engaged to provide a service for the Council are aware that this work is the intellectual property of the Council.

### **3.12 Intellectual Property**

Intellectual property is a legal term that refers to the rights and obligations received and granted, including copyright. Ownership of intellectual property is determined by considering the circumstances in which it was conceived and developed. The Council owns the copyright in material made by, or under its direction. Whether you are an employee or a contractor, copyright in material you produce in the course of your work belongs to the Council, unless otherwise explicitly provided for in your contract of employment.

### **3.13 Security**

You must visibly display your Identification Badge at all times while you are on any Council premises. All employees are required to challenge anyone in an employee and/or secure area of the Council's premises without either an Employee ID or Visitor's Badge. You must not allow any individual not displaying an ID Badge to follow ("tailgate") you into any secure area of the Council's premises.

If you come to work without your badge, you must report to the nearest Customer Services point to collect and use a temporary replacement. If you lose your ID Badge, you must report it immediately to your manager. You will be required to pay for a replacement.

If you have a visitor coming to see you at the Council's premises, you must follow the Visitor Monitoring arrangements.

### **3.14 Public Comment on Council Policy and Administration**

'Public comment' in this section includes public speaking engagements, comments on radio and television, letters to newspapers, and expressing views in books, journals or notices if it is expected that the comments will spread to the community at large.

All media requests for information and enquiries that relate to policy and procedures or operational activities must be referred to the Council's Communications Team. The Council procedure should be followed in these instances.

**When making authorised public comment in an official capacity, you must:**

- Ensure it is part of your official role.
- Not misrepresent the facts concerning Government or Council policy or administration.
- Comply with the confidential information provisions of the Data Protection Act.
- Respect the confidentiality of information that has not been approved for release either by the Cabinet or through official Council channels.

In your capacity as a private citizen, you have the same rights as any other member of the public to openly discuss or comment on community and social issues. However, there are some circumstances where you may still need to take care in making such comments. For example, a situation could arise when public comment, although made in a private capacity, may appear to be an official comment on behalf of the Council. In such circumstances you should indicate clearly that your comment is made in a private capacity and does not represent the official view of the Council.

It is your responsibility to take all reasonable steps to ensure that any comment will be understood as representing your personal views as a private citizen. If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the Council.

If you are in any doubt, contact your line manager or the Director, Customer Communications on telephone number 01793 463020.

### **3.15 Internal Audit and Risk Management**

An effective internal audit function and risk management framework are important mechanisms for the Council to ensure effective internal control, good financial systems and management of risk. All employees have a responsibility to contribute to this work and, where an agreed action plan makes you personally responsible for progressing a particular action, it is your responsibility to ensure that it is undertaken within the agreed timescale.

## 4. Ways of Working

### **You should ensure your leadership and management style:**

- Is based on open, honest and thorough communication.
- Provides for optimum working conditions within the resources available to you.
- Supports positive performance management processes, including access to related learning and development opportunities for employees.
- Supports the right of employees to engage in open dialogue with you, and to pursue relevant conflict and grievance management options when issues arise.

### **4.1 Managerial Roles and Responsibilities**

As a manager, you have a responsibility to set a good example for employees through your own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations and standards as set in this Code of Conduct. You should ensure that you understand your responsibilities under relevant financial, technological, information, human, knowledge/intellectual and physical asset management legislation, policies and procedures, maintaining the principles of accountability, continuous improvement, fairness, flexibility and equity in the workplace.

You should ensure that employees understand performance standards expected from them and objectively assess their performance against these standards.

You must ensure that relevant legislation, delegations, and Council policies and procedures are accessible to all employees in your workgroup.

You should ensure that all employees who report to you are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback and work conditions needed to achieve them.

You should be honest and objective in reporting the skills and qualities of employees in testimonials; references and performance reports, ensuring your decisions can be substantiated against objective standards and indicators.

You are required to act promptly, thoroughly and fairly when responding to, or investigating grievances and reports of breaches of the Code of Conduct.

To avoid any accusation of bias, you must not be involved in the appointment of any applicant if you are a relative or friend to them. Similarly, you must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or friend. If you are in any doubt, you should discuss the matter with your manager.

## 4.2 Following Instructions

- You are expected to follow all reasonable and lawful instructions related to your work given by a person with the authority to issue such instructions.
- You should accept that you may not personally agree with all decisions made by your manager.
- You may refuse to comply with an instruction that appears to be unlawful and report the matter to an appropriate senior officer.
- You should tell the person giving an unreasonable instruction that the instruction is, in your view, unreasonable and allow them the opportunity to respond. In the interim, you are generally required to carry out the instruction unless:
  - there is a danger to a person's health and safety or
  - a conflict of interest may exist or
  - it does not comply with Council policy and practice.

Managers must be able to justify their instructions and decisions in line with their delegations, authority, and Council policies and procedures, and be open and respond promptly to constructive questions.

If you object to an instruction on genuine conscientious grounds, or if there may be a perceived conflict with a professional code of ethics, you should attempt to negotiate and resolve the matter with your manager to achieve a mutually acceptable solution. If a local resolution is unable to be reached, refer the issue to your Director or Group Director.

## 4.3 Working with Councillors

Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and elected Members can damage the relationship and cause embarrassment to other employees. Such familiarity should be avoided. The Council has agreed a Member/Officer Protocol that councillors and officers must comply with. Councillors have their own Code of Conduct that they are also required to comply with.

As a private citizen you have the right to communicate directly with a Member of Parliament on any issue affecting you as a private citizen.

#### **4.4 Communication with Senior Officers and Members**

When required, you are expected to provide Members, the Chief Executive or other line managers with advice that is frank, independent, based on accurate and comprehensive representation of the facts. This includes setting out the advantages, disadvantages, costs and consequences of the available options and where appropriate, recommending a course of action.

When communicating directly with Members on issues affecting you as a private citizen, you should ensure your actions comply with the obligations relating to public comment.

#### **4.5 Working with Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and should provide courteous, efficient and impartial service delivery to all groups and individuals within the community.

#### **4.6 Working with Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known in writing to the Director of Procurement and copied to the Director of Law and Democratic Services. Orders and contracts must be awarded in accordance with the Council's Standing Orders and procurement process. No special favour in the tendering process must be shown to businesses run by, for example, friends, partners, or relatives. No part of the local community must be discriminated against.

#### **4.7 Working Safely**

Any activity that presents a significant risk to the health, safety or well-being of an employee or other person must have been subject to a written risk assessment. This is a tool which managers must use to determine the safest and best way of carrying out the work, including appropriate training, personal protective equipment etc. Appropriate safety controls should all be summarised on the risk assessment or safe system of work procedure and provided to the relevant employees.

Employees must follow the resulting safe system of work to ensure their safety and that of others is not put at risk. If these are not in place, speak to your manager in the first instance or your Health and Safety adviser.

***For example, you must:***

- Comply with the instructions given for workplace health and safety at the workplace by the Council.
- Use personal protective equipment if the equipment is provided and you have been properly instructed to use it.
- Not wilfully or recklessly interfere with or misuse anything provided for workplace health and safety at the workplace.
- Not wilfully place at risk the health and safety of any person at the workplace.
- Not wilfully injure yourself.
- Report to your supervisor any workplace hazards that cannot be immediately rectified.
- Ensure that you comply in practice with any guidelines given for performing manual handling tasks.
- Take all reasonable steps to ensure that employees you supervise are following guidelines and have access to job-specific training.

#### **4.8 Dress Standards**

Your dress style must reflect appropriate workplace health, safety and security considerations applicable to your job and work environment.



## 5. Reporting Breaches of the Code and Whistleblowing

### Disclosures might be about:

- Official misconduct
- Incorrect administration
- Negligent or improper management affecting public funds.

If you are concerned about any practice you see in the Council which you think conflicts with the Code of Conduct, you should obtain advice from your manager, your department head, Trade Union representative, or any other appropriate person as identified in the Council's policies referred to in the Code of Conduct.

The Public Interests Disclosures Act 1998 and the Council's Disclosure (Whistleblowing) Policy can provide safeguards for employees and public officials who disclose unlawful and improper conduct including breaches of this Code.

Public interest disclosures should be made directly to the Monitoring Officer, who is the Director, Law and Democratic Services, or to the Head of Internal Audit on the confidential whistleblowing line 01793 464603.

Any suspicion of money laundering must be reported in the first instance to the Director of Finance.



# 6. A Quick Guide

## A Quick Guide To Making an ethical decision

Not every ethical dilemma can be detailed in a Code of Conduct. This is because every situation is different. To help you assess a situation, a useful rule is – **when in doubt, talk about it**. You can talk with your manager, a colleague, trade union representative, or an adviser from Human Resources or Law and Democratic Services.

It is important to analyse all the relevant facts and circumstances before deciding what is the ethical thing to do.

### 1. What is the problem? – describe the situation

- What is happening and who is involved?
- Who is affected?
- What are the job expectations?
- What are the actual or foreseeable consequences and impact?
- What guidance is there in legislation and the Code of Conduct?
- Which Council policy or procedure applies?
- Why do I feel uncomfortable with this?

### 2. Is it an ethical problem? – apply the Code of Conduct

- What ethics obligations and standards apply?
- Would the public see the proposed conduct, decision or advice as fair, honest and appropriate?
- Is the public's confidence in the Council at risk?
- Are the values of natural justice, accountability and reasonableness met?
- Has the Council's duty of care been compromised?
- Are my personal and professional beliefs and values compromised?

### 3. What action should be taken? – identify options

- Do I have the power or authority to deal with the issue?
- Who else should I talk to?
- What options are available that meet the relevant ethics principles?
- What is consistent with current policy and practice?
- What are the pros and cons of each option?
- How would the public view these options?
- What feels right to me as a professional public official?

#### 4. What is the most ethical option? – choose a course of action

- Is the decision fair and equitable as outlined in the ethics principles?
- Does it provide a reasonable balance between competing interests and values?
- Is it consistent with relevant legislation, policy and practice?
- Can the decision be justified to Members and the public?
- Can the decision be easily explained?
- Is it easy to document the key issues and explain the reasons for the decision?
- Do I feel comfortable?

#### 5. What changes may need to occur? – follow up

- Is this ethical issue an isolated event or does it represent a wider Council issue?
- Who needs to be advised and how?
- What do I need to do to prevent the situation occurring again?



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## **MONITORING OFFICER PROTOCOL**

*(First adopted by the Standards Committee: 3rd December 2003*

*Last reviewed by Standards Committee: 27<sup>th</sup> February 2023)*

- 1 The Monitoring Officer undertakes to discharge his or her responsibilities outlined in this paper with determination and a manner which will enhance the reputation of the Council. In general terms his or her ability to discharge these duties depends on excellent working relations with colleagues and members but also the flow of information and access to debate particularly at early stages.
  
- 2 The following arrangements and understandings between the Monitoring Officer and colleagues and members are designed to help ensure the effective discharge of their functions:
  - a) If not a member of the Corporate Board, the Monitoring Officer will have advance notice of those meetings and agenda and reports, and the right to attend and speak.
  
  - b) Advance notice of any meeting whether formal or informal between the Chief Executive, Corporate Directors, Directors, or Heads of Service (Tier 1 and 2) and members of the Executive or Committee Chairmen will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise.
  
  - c) The Chief Executive, Corporate Directors, Directors and Heads of Service (Tier 1 and 2) will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
  
  - d) The Monitoring Officer or his/her staff will have copies of all reports to members.
  
  - e) The Monitoring Officer is expected to develop good liaison and working relations with relevant Government Departments, the external auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
  
  - f) The Monitoring Officer will have a special relationship with the Chairman of the Council, Chairman of the Standards Committee and Overview and Scrutiny Committees and will ensure the Head of Paid Service and Chief Finance Officer have up-to-date information regarding emerging issues.
  
  - g) The Monitoring Officer will be expected to make enquiries into allegations of misconduct and if appropriate will make a written report to the Standards Committee unless the Monitoring Officer and Chair of Standards Committee

agree a report is not warranted.

- h) The Head of Paid Service, Chief Finance Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
- i) In carrying out any investigation (whether under Regulations or otherwise) the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.
- j) The Monitoring Officer will have control of a budget sufficient to enable him to seek Counsel's opinion on any matter concerning their functions.
- k) The Monitoring Officer will be responsible for preparing a training programme for members on the ethical framework subject to the approval of the Standards Committee.
- l) The Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of Paid Service and Chief Finance Officer.
- m) In consultation with the Mayor, the Chair of the Standards Committee, the Leader of the Council, the Head of Paid Service, and the Chief Finance Officer, the Monitoring Officer may defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved.
- n) The Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources they require to discharge his/her functions.
- o) The Monitoring Officer will appoint a deputy and keep him or her briefed on emerging issues.
- p) The Monitoring Officer will make arrangements to ensure good communication between his/her office and Clerks to Parish Councils.

May 2013  
Reviewed February 2023

# Councillor Role Definitions

(Last updated: July 2023)

## 1 LEADER OF THE COUNCIL

### ROLE PURPOSE:

To be the senior political spokesperson for the Council and the executive Cabinet.

To provide political leadership to the Council.

To provide community leadership and together with the Mayor to promote Swindon as a whole and act as a focal point for the community.

### DUTIES AND RESPONSIBILITIES:

**To work with other cabinet members and the officers of the Council to:-**

1. Communicate effectively the Cabinet and Council policies.
2. Provide political leadership in the development of policy options, especially the corporate strategy, including the setting of targets.
3. Ensure policies accord with corporate strategy, and ensure coherence across all policy areas.
4. Maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. Generally, to promote Swindon Council as a model employer with a firm commitment to equality of opportunity.
5. Lead political debate and make recommendations to Council on the overall priorities and the distribution of resources and the setting of the Council's budget.
6. Have overall responsibility within the Cabinet for the budget.
7. Make executive decisions that have been delegated to Cabinet members solely in accordance with the procedure set out in the Constitution.
8. Monitor progress towards policy objectives.
9. Liaise with other bodies/partners at political/policy level and representatives of the community and represent the Council's best interests.

10. Represent Swindon's interest locally, regionally and nationally, take on such representative and civic duties as may be required, and act as an advocate for Swindon.
11. Assist and advise, where necessary, Councillors pursuing constituency issues.
12. Represent the Cabinet.
13. As appropriate, to act as the spokesperson for the Cabinet in connection with overview and scrutiny matters.
14. Lead the work of the Cabinet, its programmes and priorities.
15. Act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocols.
16. Assist with the training and development of political colleagues.
17. In consultation with the Deputy Leader, and with external support from SOLACE where required, to set the Chief Executive's annual performance targets and to hold him/her to account for progress towards them.
18. Liaise with the Chief Executive and other key staff on a regular basis and provide formal policy guidance and support.
19. Provide guidance and support to Cabinet colleagues as appropriate in relation to their portfolios.
20. Appoint the Deputy Leader and members of the Cabinet and undertake periodic reviews of the portfolios and the allocation of portfolios to Cabinet colleagues.
21. Support the devolution of decision-making to communities.



## **2 DEPUTY LEADER OF THE COUNCIL**

### **ROLE PURPOSE:**

To deputise for the Leader as senior political spokesperson for the Council and the executive Cabinet.

To support the Leader in providing political leadership to the Council.

To provide community leadership and together with the Mayor to promote Swindon as a whole and act as a focal point for the community.

### **DUTIES AND RESPONSIBILITIES:**

#### **To work with other cabinet members and the officers of the Council to:-**

1. To support the Leader of the Council in
  - a. Communicating effectively the Cabinet and Council policies.
  - b. Providing political leadership in the development of policy options, especially the corporate strategy, including the setting of targets.
  - c. Ensuring policies accord with corporate strategy, and ensure coherence across all policy areas.
  - d. Maintaining staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. Generally, promoting Swindon Council as a model employer with a firm commitment to equality of opportunity.
  - e. Leading political debate and make recommendations to Council on the overall priorities and the distribution of resources and the setting of the Council's budget.
  - f. Leading the work of the Cabinet, its programmes and priorities.
2. Monitor progress towards policy objectives.
3. Liaise with other bodies/partners at political/policy level and representatives of the community and represent the Council's best interests.
4. Represent Swindon's interest locally, regionally and nationally, take on such representative and civic duties as may be required, and act as an advocate for Swindon.
5. Assist and advise, where necessary, Councillors pursuing constituency issues.

6. Represent the Cabinet in the Leader's absence.
7. As appropriate, to act as the spokesperson for the Cabinet in connection with overview and scrutiny matters.
8. Act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocols.
16. Assist with the training and development of political colleagues.
17. Support the Leader, along with external support from SOLACE where required, in setting the Chief Executive's annual performance targets and to hold him/her to account for progress towards them.
18. Liaise with the Chief Executive and other key staff on a regular basis and provide formal policy guidance and support.
19. Provide guidance and support to Cabinet colleagues as appropriate in relation to their portfolios.
20. Support the Leader in matters of succession planning for all portfolios.
21. Support the devolution of decision-making to communities.

### **3 CABINET ROLE DEFINITION**

#### **CABINET MEMBER FOR .....**

#### **ROLE PURPOSE:**

1. Under the leadership of the Leader of the Council:-
  - (a) to act as the political spokesperson for the Council and the Cabinet for the portfolio set out below;
  - (b) to contribute fully as a member of the Cabinet.

**PORTFOLIO:** (As appropriate)

#### **DUTIES AND RESPONSIBILITIES:**

##### **To work with other Cabinet members and the officers of the Council to:-**

1. Research and develop policies/strategies within the designated portfolio, particularly the relevant parts of the corporate strategy.
2. Ensure the policies accord with Cabinet, Swindon Council and One Swindon corporate strategies, and ensure consistency across all policy areas.
3. Sponsors policy initiatives directed to the relevant Policy Development Committee to undertake detailed policy development. Specifies any preferred approach to policy development and objectives, and provides input and updates to the Committee or group tasked with that particular work. Evaluates output and refers draft policy to Cabinet for consideration as sponsor.
4. Assist with the monitoring of policy objectives against targets and ensure work undertaken offers best value.
5. Maintain staff commitment and morale through providing clear policy direction, sustainable workloads and good working conditions. Generally to promote Swindon Council as a model employer within a firm commitment to equality of opportunity.
6. Liaise with other bodies/partners in the identified areas of interest and to represent publicly the best interests of Swindon Council.
7. Support the Leader of the Council and the Cabinet generally in accordance with the principles of collective responsibility and any Cabinet code of conduct that the Leader may adopt.
8. Liaise with the Chief Executive and other key staff and provide informal policy guidance and support.
9. Undertake work associated with other portfolios as required.

10. Communicate and regularly update Cabinet colleagues and any recognised overview or scrutiny group.
11. Assist with the training and development of political colleagues.
12. Act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community, and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocol.
13. Accept Cabinet responsibility for the decisions of the Cabinet and its members in all matters and to advocate these, as necessary, on behalf of the Cabinet.
14. Make executive decisions that have been delegated to Cabinet members solely in accordance with the procedure set out in the Constitution.
15. Assist the Leader of the Council in the preparation of annual budget proposals and consultations.
16. Challenge services to deliver excellent Value for Money (VFM) characterised by high performance and costs that demonstrate best value compared to similar councils.
17. Consult with Ward Members on any decision that affects that Councillor's Ward, and have regard to any comments from Ward Councillors before a decision is made.
18. Support the devolution of decision-making to communities.
19. Monitor progress towards policy objectives.

## **COUNCILLOR ROLE DEFINITION**

### **4 Chair of HEALTH AND WELLBEING BOARD**

#### **ROLE PURPOSE:**

1. Under the direction of the Council to:
  - (a) Act as Chair of the Health and Wellbeing Board.
  - (b) Act as the spokesperson of the relevant Board to the Cabinet, the Council, partner organisations and the local community;
  - (c) Contribute fully as a member of the Board.

#### **DUTIES AND RESPONSIBILITIES:**

##### **To work with other Councillors and officers of the Council and strategic partners to:-**

1. Ensure the Board provides strategic leadership to improve the health and wellbeing of people of all ages in Swindon and to reduce health inequalities in Swindon.
2. Ensure the Board develops the Swindon Joint Health and Wellbeing Strategy.
3. Fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
4. Accept responsibility for the decisions of the Board and to advocate these, as necessary, on behalf of the Board
5. Establish, as appropriate, and in liaison with relevant Councillors, officers and strategic partners
6. Develop and maintain a shared ownership of the Board by all members and provide accountability to the communities it serves.
7. Ensure that the Board operates in an open and transparent way and is inclusive in the way it engages with patients, service users and the public.
8. Ensure that any work programme associated with the Board's role is carried out satisfactorily and in accordance with any timetable determined by the legislation, Council, the Cabinet or by the Board itself.
9. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **COUNCILLOR ROLE DEFINITION**

### **5 Non-Executive (Backbench) Councillor**

#### **ROLE PURPOSE**

1. Take part in the "good governance" of Swindon.
2. Help to form, develop and scrutinise Swindon Council's policies, budgets, strategies and service delivery.
3. Represent effectively the interests of the Ward for which elected and to deal with constituents enquiries and representations.
4. Promote the causes which reflect the best interests of the Ward for which elected and of Swindon.
5. Campaign for the promotion of the social, economic and environmental well – being of the Ward for which elected and of Swindon.

#### **DUTIES AND RESPONSIBILITIES:**

##### **To work with other Councillors and officers of the Council to:-**

1. Meet the statutory requirements of an elected member of a local authority, including compliance with all relevant codes of conduct.
2. Take part fully in the activities and decision-making role of the Council.
3. Take part fully in any committee or other forum to which appointed by the Council, and to participate fully in the locality or localities meetings that cover the ward for which they are elected.
4. Take part fully in the activities of any outside body to which appointed, and provide a means of two-way communication between that organisation and the Council.
5. Develop a working knowledge of the Council's policies and practices, in particular the corporate plan.
6. Develop a working knowledge of the Council's departmental and management structure, management arrangements, powers and duties and constraints and develop good working relationships with relevant officers of the Council.
7. Take part in overview and scrutiny and performance review of the services of the Council to ensure that they are effective in achieving both Value for Money and Swindon Council's strategic policy objectives.

8. Take part, as appointed, in consultative processes with the community and other partners and stakeholders.
9. Represent Swindon Council to the community, and the community to Swindon Council, through the various methods available and, in particular to work with locality which covers the ward to which they are elected and the Parish Councils in parished areas.
10. Represent constituents' interests to the Council and Swindon Council's interests to constituents.
11. Develop a working knowledge of the organisations, services, activities and other factors which impact on the well-being of the Ward for which elected and of Swindon in general.
12. Contribute to open government and to the development of increased local democracy through the active encouragement of all sections of the community to participate in the "governance" of Swindon.
13. Participate in the activities of any political group of which the Councillor is a member.
14. Act in accordance with the highest standards of probity in public life, seeking to serve the best interests of the community, and to promote and support these principles by leadership and example. This will include acting within any agreed Councillor protocol.
15. Participate in and implement devolved decision-making to communities.

## **COUNCILLOR ROLE DEFINITION**

### **6 Non-Executive (Backbench) Councillor- Overview and Scrutiny**

#### **ROLE PURPOSE:**

Under the direction of the Overview and Scrutiny Committee to:-

1. Assist in the scrutiny of the management and policy implementation of Swindon Council (and others) and to recommend changes and improvements.
2. Assist in the development of policy by working with and contributing to the work of the Policy Development Committees
3. Assist in the monitoring of service performance and budgets.
4. Assist in the monitoring of the achievement of “Value for Money” (VFM) in Council services.
5. Scrutinise the decision making of the Cabinet against the Budget and Policy Framework laid down by the Council and against performance targets and budgets.
6. Assist in the investigations referred to the Committee by the Cabinet, Council or Council Members.

#### **POWERS AND RESPONSIBILITIES:**

**To work with other Councillors and officers of the Council to:-**

1. Question Cabinet members on matters relating to their roles and responsibilities.
2. Question the Chief Executive, Corporate Directors, Directors, and Heads of Service on matters relating to their roles, functions and responsibilities.
3. Call expert witnesses and advisors from outside the Council, or a Member of the Council not serving on the Committee, to provide advice on matters under review or discussion.
4. Develop a working knowledge of the overview and scrutiny function and the outcomes and services, which are the responsibility of the relevant Committee, sub-committee or task group.
5. Participate actively in the activities associated with the Overview and Scrutiny Committee’s work.



6. Develop a working knowledge of the Council's Constitution, including Standing Orders, statutory requirements, regulations, codes of conduct, practice and agreed conventions associated with, and relating to, the relevant Committee and its functions.
7. Identify areas relevant to the Committee needing review or monitoring.
8. Identify issues relevant to the Committee to be the subject of policy development.
9. Report to the Cabinet or the Council, as a member of the relevant committee, regarding the conclusion of, and recommendations arising from, the investigations, reviews and studies undertaken.
10. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor Protocol.

## **COUNCILLOR ROLE DEFINITION**

### **7 Chair of Overview and Scrutiny Committee**

#### **ROLE PURPOSE:**

1. Under the direction of the Council:-
  - (a) to act as Chair of the Overview and Scrutiny Committee.
  - (b) to act as the spokesperson of the Overview and Scrutiny Committee to the Cabinet, the Council and the local community;
  - (c) to contribute fully as a member of the Committee.

#### **DUTIES AND RESPONSIBILITIES:**

##### **To work with other Councillors and officers of the Council to:-**

1. Develop a working knowledge of the overview and scrutiny function and the services, which are the responsibility of the Committee.
2. Ensure that the approach to overview and scrutiny is managed effectively, unified and that duplication of effort or investigation is avoided between Committees, sub-committees and any task group.
3. Lead the overview and scrutiny function and to act as the link between the overview and scrutiny function and the Cabinet Member responsible for the service subject to scrutiny, and the Member responsible for Value for Money (VFM) and performance.
4. Fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
5. Accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
6. Establish, as appropriate, and in liaison with relevant officers, the Committee work programme, the officers / witnesses to be called and the order of attendance / appearance.
7. Ensure that any work programme associated with the overview and scrutiny function is carried out satisfactorily and in accordance with any timetable determined by the Council, the Cabinet or by the Committee itself.
8. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **8 CHAIR OF STANDARDS COMMITTEE**

### **ROLE PURPOSE:**

1. Under the direction of the Council and the Standards Committee:-
  - (a) To act as Chair of the Standards Committee.
  - (b) to act as the spokesperson of the Standards Committee to the Council, Town and Parish Councils, and the local community;
  - (c) to contribute fully as a member of the Standards Committee.

### **DUTIES AND RESPONSIBILITIES:**

**To work with other Standards Committee members, the Council's Monitoring Officer and the officers of the Council to:-**

1. Develop a working knowledge of the Ethical Framework and the matters that are the responsibility of the Standards Committee and its Sub-Committees.
2. Promote actively ethics and standards within Swindon Borough Council and within Town and Parish Councils within the Borough and to ensure that the work of the Standards Committee is managed effectively.
3. Foster and maintain a disciplined approach by the Members involved in the Standards Committee and its Sub-Committees having regard to high standards of procedure, behaviour and ethics.
4. Lead the Standards Committee function within the Council and to act as the link between the Committee, the Monitoring Officer, relevant Council Departments, officers and Councillors, and the Parish and Town Councils.
5. Fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. Accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. Represent the Standards Committee in all dealings with the public media and other bodies in respect of the work of the Committee.
8. Promote and participate in training and development associated with the work of the Standards Committee and the Ethical Framework, including the Code of Conduct.
9. Establish, as appropriate, and in liaison with the Monitoring Officer, the Standards Committee work programme.

10. Ensure that any work programme associated with the Standards Committee is carried out satisfactorily and in accordance with any timetable determined by statute, the Council or by the Committee itself.
11. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol.
12. Participate in and promote any forum established for independent members of the Standards Committee.
13. Attend, if required, other meetings of the Borough Council or Parish Councils in order to represent the Standards Committee and raise the profile of ethics and standards within the authority and Borough.

## **9 INDEPENDENT MEMBER OF STANDARDS COMMITTEE OF STANDARDS COMMITTEE**

### **ROLE PURPOSE:**

1. Under the direction of the Council's Standards Committee:-
  - (a) to assist in the delivery of high standards of ethics and probity within Swindon Borough Council and within Town and Parish Councils within the Borough to the benefit of the local community;
  - (b) to contribute fully as a member of the Standards Committee.

### **DUTIES AND RESPONSIBILITIES:**

**To work with the Chair of the Standards Committee and other Standards Committee members and the officers of the Council to:-**

1. Attend and participate actively as of a member of the Standards Committee in meetings of the Committee and any sub-committees as and when required.
2. Promote actively ethics and standards within Swindon Borough Council and within Town and Parish Councils within the Borough area.
3. Participate in training events to promote awareness of the Code of Conduct.
4. Participate in any forum established for independent members of the Standards Committee.
5. Attend if required other meetings of the Borough Council or Parish Councils in order to represent the Standards Committee and raise the profile of ethics and standards within the authority and Borough.
6. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **10 CHAIR OF LICENSING COMMITTEE**

### **ROLE PURPOSE**

1. Under the direction of the Council:-
  - (a) To act as Chair of the Licensing Committee.
  - (b) to act as the spokesperson of the Licensing Committee to the Council and the local community;
  - (c) to contribute fully as a member of the Licensing Committee.

### **DUTIES AND RESPONSIBILITIES**

#### **To work with other Licensing Committee members and the officers of the Council to:-**

1. Develop a working knowledge of the Licensing function and the matters that are the responsibility of the Licensing Committee and its Panels and Sub-Committees.
2. Ensure that the approach to Licensing is managed effectively, and that matters before the Committee, and its Panels and Sub-Committees are approached with an open mind avoiding any predetermination or bias.
3. Foster and maintain a disciplined approach by the Members involved in the Licensing Committee and its Panels and Sub-Committees having regard to high standards of procedure, behaviour and ethics.
4. Lead the Licensing function within the Council and to act as the link between the Licensing function and relevant Council Departments, officers and Councillors.
5. Fulfil the role of Chair and to ensure that the meeting is run in accordance with the Council's Constitution and its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. Accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. Represent the Council and the Licensing Committee in all dealings with the public media and other bodies in respect of the work of the Committee.
8. Promote and participate in Member training and development associated with the Licensing function.
9. Establish, as appropriate, and in liaison with relevant officers, the Licensing Committee work programme.

10. Ensure that any work programme associated with the Licensing function is carried out satisfactorily and in accordance with any timetable determined by the Council or by the Committee itself.
11. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **11 MEMBER OF LICENSING COMMITTEE**

### **ROLE PURPOSE**

1. Under the direction of the Council:-
  - (a) to assist in the delivery of the Council's Licensing function for the benefit of the Council and the local community;
  - (b) to contribute fully as a member of the Licensing Committee.

### **DUTIES AND RESPONSIBILITIES**

**To work with the Chair of the Licensing Committee and other Licensing Committee members and the officers of the Council to:-**

1. Develop a working knowledge of the Licensing function and the matters that are the responsibility of the Licensing Committee and its Panels and Sub-Committees.
2. Ensure that the approach to Licensing is delivered fairly and effectively, and that all matters before the Committee, and any Panels and Sub-Committees on which the Member serves are approached with an open mind avoiding any predetermination or bias.
3. Maintain a disciplined approach when involved in the work of the Licensing Committee and its Panels and Sub-Committees having regard to high standards of procedure, behaviour and ethics.
4. Participate actively as of a member of the Licensing Committee and to ensure compliance with the requirements of the Council's Constitution, its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
6. Accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
7. Participate in Member training and development associated with the Licensing function.
8. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.



## **12 CHAIR OF AUDIT COMMITTEE**

### **ROLE PURPOSE**

1. Under the direction of the Council and the Audit Committee:
  - (a) to Chair the Committee of the Council charged with overseeing the financial reporting, risk management, audit and internal control arrangements of the Council.
  - (b) to act as the spokesperson of the Audit Committee to the Council and the local community;
  - (c) to contribute fully as a member of the Audit Committee.

### **DUTIES AND RESPONSIBILITIES**

**To work with other Audit Committee members, the Corporate Director, Resources, the Council's Monitoring Officer, Head of Internal Audit and the officers of the Council to:-**

1. Chair the Audit Committee in reviewing the effectiveness of the Council's risk management framework and internal control environment, including overseeing:
  - Risk management strategies
  - Financial statements
  - Internal and External Audit reports
  - Anti-fraud arrangements
  - Other evidence of the Council's risk management and internal control systems
2. Develop a working knowledge of the matters that are the responsibility of the Audit Committee.
3. Promote actively the role of the Audit Committee in particular in relation to risk management and internal control.
4. Work with the Corporate Director Resources, the Head of Internal Audit and Risk Manager to plan an effective work programme for the Committee.
5. Report to Council when necessary to give assurances about the financial statements, risk management and internal control mechanisms or to raise concerns of any significant weakness.
6. Receive briefings from Corporate Directors or other senior staff in order to understand the context and importance of forthcoming events.
7. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol.

8. Promote and participate in Training and Development associated with the work of the Audit Committee.

## **13 MEMBER OF AUDIT COMMITTEE**

### **ROLE PURPOSE:**

1. Under the direction of the Council's Audit Committee:-
  - (a) to assist in the delivery of high standards of risk management and internal control within Swindon Borough Council to the benefit of the local community;
  - (b) to contribute fully as a member of the Audit Committee.

### **DUTIES AND RESPONSIBILITIES:**

**To work with the Chair of the Audit Committee and other Audit Committee members and the officers of the Council to:-**

1. Attend and participate actively as of a member of the Audit Committee in meetings of the Committee and any sub-committees as and when required.
2. Review the effectiveness of the Council's risk management framework and internal control environment, including overseeing:
  - Risk management strategies
  - Anti-fraud arrangements
3. Monitor the effectiveness of the Council's financial and non-financial performance to the extent that it affects exposure to risk and poor internal control.
4. Provide independent assurance to the Council in relation to the annual Governance Statement.
5. Review and approve the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
6. Monitor and review the activity and effectiveness of both Internal and External Audit.
7. Promote and participate in Training and Development associated with the work of the Audit Committee.
8. Promote actively risk management and internal control within Swindon Borough Council.
9. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **14 CHAIR OF PLANNING COMMITTEE**

### **ROLE PURPOSE:**

1. Under the direction of the Council:-
  - (a) to Chair the Planning Committee
  - (b) to act as the spokesperson of the Planning Committee to the Council and the local community;
  - (c) to contribute fully as a member of the Planning Committee.

### **DUTIES AND RESPONSIBILITIES:**

#### **To work with other Planning Committee members and the officers of the Council to:-**

1. Fulfil the role of Chair and to ensure that meetings are run in accordance with the Council's Constitution and its relevant Standing Orders, statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
2. Accept responsibility for the decisions of the Committee and to advocate these, as necessary, on behalf of the Committee.
3. Develop a working knowledge of the Planning function and the matters that are the responsibility of the Planning Committee.
4. Ensure that the approach to Planning is managed effectively, and that matters before the Committee, are approached with an open mind avoiding any predetermination or bias.
5. Foster and maintain a disciplined approach by the Members involved in the Planning Committee having regard to high standards of procedure, behaviour and ethics.
6. Liaise with the relevant Cabinet Members on matters within the purview of the Planning Committee. ,
7. Promote and participate in Member training and development associated with the Planning function.
8. Subject to the Media Guidelines for Councillors, represent the Council and the Planning Committee, where necessary, in dealings with the public media and other bodies in respect of the work of the Committee.
9. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **15 MEMBER OF PLANNING COMMITTEE**

### **ROLE PURPOSE:**

1. Under the direction of the Council:-
  - (a) to assist in the delivery of the Council's Planning function for the benefit of the Council and the local community;
  - (b) to contribute fully as a member of the Planning Committee.

### **DUTIES AND RESPONSIBILITIES:**

**To work with the Chair of the Planning Committee and other Planning Committee members and the officers of the Council to:-**

1. Develop a working knowledge of the Planning function and the matters that are the responsibility of the Planning Committee.
2. Ensure that the approach to Planning is delivered fairly and effectively, and that all matters before the Committee, are approached with an open mind avoiding any predetermination or bias.
3. Abide by the rules and conventions as set out in the Members' Planning Code of Good Practice including when part of the decision making meetings of the Council in exercising the functions of the Planning Authority, or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.
4. Apply the Members' Planning Code of Good Practice equally to enforcement matters or site specific policy issues.
5. Make planning decisions openly, impartially, with sound judgement and for justifiable reasons, in accordance with the Development Framework.
6. Maintain a disciplined approach when involved in the work of the Planning Committee having regard to high standards of procedure, behaviour and ethics.
7. Participate actively as a member of the Planning Committee, and to ensure compliance with the requirements of the Council's Constitution, its relevant Standing Orders, Statutory requirements, regulations or other codes of conduct, practice or agreed conventions.
8. Accept ownership of the decisions of the Committee and to explain these, as necessary, on behalf of the Committee.
9. Participate in Member training and development associated with the Planning function.

10. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed Councillor protocol.

## **16 LEADER OF MAIN OPPOSITION GROUP**

### **ROLE PURPOSE:**

To undertake the functions of a Councillor and to provide leadership to the major Opposition Political Group on the Council.

### **DUTIES AND RESPONSIBILITIES:**

#### **To work with other councillors and the officers of the Council to:-**

1. Lead the Opposition Political Group within the Council, and to act as the link between that Opposition Group and the Administration (Controlling Political Group), the other Political Groups and independent Councillors, Council officers and relevant Council Departments.
2. Act as the principal spokesperson for the Opposition Group on the Council and as a representative of the Council to external bodies and other organisations as appropriate.
3. Participate actively in the work of the Council, particularly, by way of commenting, challenging and reviewing the Council Administration's (Controlling Political Group's) performance in the co-ordination and implementation of its policies.
4. Establish and represent the views of the Opposition Group on issues of policy.
5. Foster and maintain a disciplined approach by the Members of the Opposition Group having regard to high standards of procedure, behaviour and ethics.
6. Accept responsibility for the decisions of the Opposition Group and to advocate these, as necessary, on behalf of the Group.
7. Represent the Opposition Group in all dealings with the public, media and other bodies in respect of the work of the Opposition Group.
8. Promote and participate in Member training and development.
9. Act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol, and in promoting this approach within the Opposition Group.

## **17 LEADER OF A MINORITY OPPOSITION GROUP**

### **ROLE PURPOSE:**

To undertake the functions of a Councillor and to provide leadership to a minority Opposition Political Group on the Council.

### **DUTIES AND RESPONSIBILITIES:**

#### **To work with other councillors and the officers of the Council to:-**

1. Lead a minority Opposition Political Group within the Council, and to act as the link between that Opposition Group and the Administration (Controlling Political Group), the other Political Groups and independent Councillors, Council officers and relevant Council Departments.
2. Act as the principle spokesperson for the minority Opposition Group on the Council and as a representative of the Council to external bodies and other organisations as appropriate.
3. Participate actively in the work of the Council, particularly, by way of commenting, challenging and reviewing the Council Administration's (Controlling Political Group's) performance in the co-ordination and implementation of its policies.
4. Establish and represent the views of the minority Opposition Group on issues of policy.
5. Foster and maintain a disciplined approach by the Members of the minority Opposition Group having regard to high standards of procedure, behaviour and ethics.
6. Accept responsibility for the decisions of the minority Opposition Group and to advocate these, as necessary, on behalf of the Group.
7. Represent the minority Opposition Group in all dealings with the public, media and other bodies in respect of the work of the minority Opposition Group.
8. Promote and participate in Member Training and Development.
9. To act in accordance with the highest standards of probity in public life seeking to serve the best interests of the community and to promote these principles by leadership and example. Including acting within any agreed protocol, and in promoting this approach within the minority Opposition Group.



# Guidance for Swindon Borough Councillors for interacting with the Media and for using Social Media

(First approved by the Standards Committee in January 2020 and reviewed in February 2023)

## PART ONE: INTERACTING WITH THE MEDIA

### 1. Background

- 1.1 The role of the Council's Communications Team is to promote and inform residents about Council policies and services and to invite consultation responses. It is essential that all reporting on issues is factual, balanced and not politically biased, and that it complies with the Code of Conduct on local council publicity issued by the Secretary of State under Section 4 of the Local Government Act 1986.

### 2. Council News Releases

- 2.1 All news releases and publications issued by the Council should cover the Council's policies and services in a clear, concise and positive manner.
- 2.2 Quotations from elected Members can be included on the following basis:
- That they positively promote the Council's policies and services
  - All quotations by Members should be cleared by the appropriate Cabinet Member and/or Leader of the Council apart from quotes by the Council's committee chairs.
  - Members quoted will always be referred to by name and official title, e.g. Cabinet Member for XXX.
- 2.3 Council publications will feature articles on all Council policies, services and events likely to be of current media interest.
- 2.4 Ministers of State visiting Swindon for an event/support of a Council initiative can be featured in Council releases with pictorial support, subject to the approval of the relevant Government press office and the Leader of the Council.
- 2.5 Reference to local MPs should only be included in releases when they are supporting a specific Council policy or initiative which is relevant to them. In all instances, the relevant Cabinet Member or Leader of the Council should agree the release before it is issued.
- 2.6 Officers should not be quoted in Council news releases, undertake interviews or respond to media enquiries without clearance from the Communications Team. The Communications Team will make every effort to contact the relevant Cabinet Member before a decision is made.

### 3. Party Political Group Media Releases

- 3.1 The Council's officers are employed by the Council itself and not by political groups. Although officers are free to support political causes in their own time they are required to remain politically neutral when carrying out their duties. Councillors should not therefore use photographs of or comments by officers to promote their own causes or profile. Councillors wishing to use publicity material which may feature council officers should first consult with the Chief Executive or the Chief Legal Officer.
- 3.2 The Council's Communications Team welcomes timely copies of releases sent out by the individual political groups for information.

### 4. Comments by Individual Members

- 4.1 As a Councillor or a Committee or Sub-Committee Member, Members will acquire much information that has not yet been made public and is still confidential. The Council's Code of Conduct makes clear that it is a breach of the Code to disclose such confidences, except in limited instances. Members should never disclose or use confidential information for their personal advantage or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 4.2 Members will also come across confidential information from sources other than the Council. Members should not make public comment on issues not formally in the public domain, such as would bring the Council into disrepute.
- 4.3 Subject to the above, Councillors are free to make whatever comment they may wish in whatever media they choose, but they must ensure the accuracy of the comment and are advised to first clear it with their Group. Any quotation should make clear whether it is the Councillor's own view expressed or whether it is a view expressed on behalf of others.
- 4.4 If a Councillor is misquoted, or his/her views misrepresented, then the Member has a responsibility to seek in writing to correct the matter and, if appropriate, copy to others affected.

### 5. Complaints

- 5.1 If any political group believes that these guidelines have been broken, this should first be raised without delay with the Monitoring Officer, who will consult as appropriate with the Chief Executive and/or Head of Performance, People and Engagement.

## **PART TWO – SOCIAL MEDIA GUIDANCE FOR COUNCILLORS**

### **6. Background**

- 6.1 Councillors should be as open as possible about the things they do and the decisions they make when acting, or appearing to act, in their 'official' capacity. Social media is an excellent tool which Councillors can use to communicate with residents – not only in getting their own messages 'out there', but also as a way of constituents getting in touch with them or alerting them to a local issue.
- 6.2 The use of Social Media does carry with it some pitfalls, however, and Councillors should be familiar with these and bear in mind at all times that errors when using, or misuse of, social media can have serious implications for the Councillor, for the Council, and sometimes for one or more of our residents.
- 6.3 Once you have published a comment or picture on social media it has effectively left your control. It is almost impossible to retrieve and completely delete data once it has been published – it may already have been downloaded, copied, edited, manipulated and posted elsewhere (sometimes being used in a different context) before you have deleted it from your own account.

### **7. Ground rules and legal considerations:**

- 7.1 When you use social media you are 'publishing' comments and views and other content, and you should take care not to fall foul of the law when you do so, even if you are simply responding to another person's comment or post, or are re-tweeting or sharing content already published by someone else.
- 7.2 Matters to bear in mind:
  - 7.2.1 Defamation – if you publish an untrue statement about a person which is damaging to their reputation you may have to pay damages.
  - 7.2.2 Copyright – if you publish – or re-publish – content or information belonging to someone else without their permission you could be liable to pay damages to the owner of that information.
  - 7.2.3 Harassment – it is a criminal offence to pursue a campaign against a person if it is likely to cause them alarm, harassment or distress.
  - 7.2.4 Data protection – you must never publish personal information about other people, including photographs, without their express permission to do so. Where a resident wishes to engage with a Councillor to seek help with a problem, they should be encouraged to communicate via private message or to email the Councillor's @swindon.gov.uk email address. Where a resident inadvertently places their own personal information into the public domain when communicating with a Councillor, the Councillor should take immediate steps to remove the information and help the resident to identify a private method of communication.
  - 7.2.5 Incitement – it is an offence to incite any person to carry out a criminal act.

- 7.2.6 Discrimination and ‘protected characteristics’ – it is an offence to discriminate against anyone based on a protected characteristic (as defined in the Equality Act 2010).
- 7.2.7 Malicious and obscene communications – it is an offence to send malicious or obscene communications.
8. Additional considerations applicable to elected Members:
- 8.1 Bias and Pre-determination – Councillors are of course allowed to have a view on certain matters, indeed sometimes they are expected to do so. However, if a Councillor airs their strongly held views on social media to the extent that they have already made up their mind on a matter upon which they are going to be making a decision, this may amount to ‘pre-determination’. This can expose the Council to the risk of a legal challenge to that decision. This issue is especially important when the Councillor in question is making decisions as part of a regulatory committee, e.g. with responsibility for planning or licensing matters. Decisions could be invalidated and the Councillor could face accusations of having brought the Council into disrepute.
- 8.2 Equality and discrimination –The Council must comply with the provisions of the Equality Act 2010 and must also have due regard to the Public Sector Equality Duty (which requires it to eliminate unlawful discrimination, advance equality of opportunity and foster good relations). When acting (or appearing to act) in their official capacity, Councillors are required to abide by these principles. If they fail to do so they may be in breach of their Code of Conduct and may also expose the Council to challenge and to reputational damage.
- 8.3 Electioneering – Council equipment and resources (this includes the use of social media on Council mobile devices or IT equipment) should never be used for political/campaigning purposes. Particular care should be taken during any pre-election period. The Electoral Commission periodically publishes guidance on this subject, including the requirements to provide a return of expenditure on election advertising (which includes online advertising).
- 8.4 Human Rights – The Human Rights Act 1998 provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2) (namely, national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others’ rights). Councillors should be aware that observing the use of social media by other people (even on ‘open’ profiles) can potentially engage Article 8.
9. Code of Conduct
- 9.1 Councillors may choose to use social media in both an official and personal capacity but must remain aware that the public may believe they are acting in a different capacity to what the Councillor intended. Personal and official social media accounts

should be kept entirely separate. Any social media account which could be linked to a Councillor, even if the Councillor believes it is entirely personal, should still meet the standards required under the Code of Conduct. Despite the common practice of heading a social media page with a statement along the lines of “The views expressed are my own personal views and have no connection with my role as Swindon Borough Councillor”, this is unlikely to prove adequate if the content of that page fail to meet the standard expected and are linked to Council issues.

9.2 Councillors should also keep alert as to the identity of their ‘friends’ and ‘followers’ on social media. If their interactions with and connections to these individuals is such that they could be termed a ‘close association’ then there will be implications for the Councillor in declaring interests and participating in meetings where that person’s well-being or financial position may be affected.

## 10 “Netiquette”

10.1 Councillors will need to be vigilant and regularly monitor their social media for defamatory or offensive comments made by others. Such comments will need to be removed without delay. Allowing them to remain could in itself be held to be ‘publishing’ such comments, even though the Councillor themselves didn’t actual create or post them. Similarly, a Councillor may be assumed to be endorsing such views or comments, which in itself could potentially place them in breach of the Code of Conduct.

10.2 Councillors should be wary of ‘liking’, ‘sharing’ or ‘re-tweeting’ comments or posts made by others as this could be interpreted as endorsing or condoning those comments and could also amount to ‘publication’.

10.3 Councillors are advised that it can sometimes be best to allow a level of disagreement, rather than seeking to censor it. There is no requirement to respond to every comment made, however, and heated on-line arguments are generally best avoided. Councillors should endeavour to be respectful and polite. This can be especially important when dealing with those who are already irate or not courteous.

10.4 Councillors are advised to avoid using social media when they are tired or angry/upset or their judgment may be otherwise impaired.

10.5 Councillors should also exercise judgment when thinking about who they ‘follow’ or become ‘friends’ with on-line. For example, an on-line ‘friendship’ with a Council officer may be seen as inappropriate, and allow third parties to question the impartiality of the officer’s advice. It is also inadvisable to ‘follow’ anyone unless you have good reason to do so. Constituents may find this odd or uncomfortable (please see also the Human Rights comments above). Many Councillors wait to be ‘followed’ before returning the compliment.

## 11. Use of Social Media During Committee Meetings

- 11.1 Sustained use of a mobile device during meetings can give the wrong impression to observers, who may assume that you are taking no interest in the meeting at all. Where meetings are engaged in important decision-making, the Council could be exposed to the risk of challenge on the basis that Councillors made the decision without listening to all the information. Ignoring speakers in a meeting in order to browse on a device may also risk an accusation of failing to treat others with respect.
- 11.2 Councillors engaged in regulatory decision-making (e.g. licensing or planning) should alert officers as soon as practicable to any lobbying they may receive via social media.
- 11.3 It is best to use mobile devices sparingly during meetings, however it is recognised that there may be occasions when their use may be invaluable – texting or emailing information between members during a debate, for example.

February 2023

### **FURTHER READING:-**

[Code of recommended practice on local authority publicity](#)

[Awareness of GDPR/Data Protection Act 2018 obligations and requirements \(LGA Guidance\)](#) and Common Law Duty of Confidentiality will also be very important whenever using social media.

[LGA Guidance – top tips](#)

[LGA social media checklist and guidance for Councillors](#)

[LGA Social Media Do's and Don'ts](#)

[LGA corporate guidance](#)

[Civility in public life and the LGA review of the model code of conduct](#)

# SWINDON BOROUGH COUNCIL PROTOCOL FOR MEMBER/OFFICER RELATIONS

*(First adopted by the Authority from 19 September 2002)*

## **1 Underlying principles**

The principles underlying this protocol are as follows: -

- 1.1 There shall be mutual courtesy and respect between Members and officers with regard to their respective roles set out below.
- 1.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.3 This Protocol applies to all dealings between Members and officers and not just in formal meetings.
- 1.4 The Council's organisationally agreed behaviour framework should be demonstrated at all times by both Officers and Members in their dealings with each other.

## **2 The Role of Members**

- 2.1 These include the following:-
  - 2.1.1 Develop and set policies that will then be implemented by the officers.
  - 2.1.2 Monitor how those policies are being implemented.
  - 2.1.3 Provide guidance to the officers on how those policies are to be implemented either if Members wish to do so or if officers ask for guidance.
  - 2.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
  - 2.1.5 Understand the statutory roles of the Chief Executive as Head of Paid Service, the Director of Finance as Section 151 Officer, the Monitoring Officer, Corporate Director of Children's Services and the Corporate Director of Adult Social Services and Health, and of the significance attached to their advice.
  - 2.1.6 Consult, where possible, with the communities they represent on the development of policy, community planning and other local initiative.
  - 2.1.7 Consult with the Monitoring Officer and the Director of Finance (S151 Officer) about vires, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were, or

are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.

2.1.8 Respect officers' political impartiality.

2.19 Promote the highest standards of conduct and ethics by leadership and example.

2.20 Act within any agreed Councillor protocol.

2.2 Members must not insist that any officer

2.2.1 Change his or her professional advice but in relation to specific matters should draw all relevant matters to the officer's attention as referred to in paragraph 3.1.7.

2.2.2 Take any action, or not take action that the officer considers unlawful or illegal, or which would be likely to amount to maladministration.

### **3 The Role of officers**

3.1 Officers:

3.1.1 Should implement the policies set by Members.

3.1.2 Will ask for guidance on implementation of the policies set by Members if they are unclear about any aspect of those policies.

3.1.3 Give such professional advice to Members as may be required of them from time to time.

3.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.

3.1.5 Must remember that he or she is employed by Swindon Borough Council as a whole and not by any particular part of the Council.

3.1.6 Are under a duty to help all Councillors/Co-optees and all parts of the Authority equally.

3.1.7 Should take all relevant matters into account when formulating advice to Members.

3.1.8 Act in accordance with the Officers Code of Conduct



- 3.2 Officers must not:
- 3.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
  - 3.2.2 Take any action, or not take action, which would be unlawful or illegal or which would be likely to amount to maladministration.

#### **4 Relationship between Members and Officers**

- 4.1 The relationship between officers and Members should be characterised by mutual respect which is essential to good local government and underpinned by the Council's agreed behaviours framework.
- 4.2 Individual Members and officers must not use improper and/or inappropriate language to each other and, in particular, offensive and/or abusive words must not be used.
- 4.3 Close personal familiarity between individual Members and officers can damage professional relationships and prove embarrassing to other Members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct, or the perception that a Member and officer treat each other differently than others due to the nature of the personal relationship between them. This includes excessive socialising between Members and officers.
- 4.4 Any close personal or family relationships (e.g. parent/child; spouse/partner) between officers and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others.
- 4.5 Members should not raise matters relating to the conduct or capability of Council staff either individually or collectively at meetings held in public or in the Press. Staff have no means of responding to criticism like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a member of staff they should raise the matter with the Corporate Director, Director or Head of Service of the department concerned if they fail to resolve it through direct discussion with the member of staff.

#### **5 Relationship between the Mayor, Leader of the Council, Cabinet Members and officers**

- 5.1 The Mayor, the Leader of the Council and Cabinet Members shall be bound by the same provisions set out in paragraph 2 when acting as Mayor/Chair of the Council or Members of the Cabinet as they would be when acting as an ordinary Council Member.

**6 Relationship between the Chair and Members of Overview and Scrutiny Committees (including the Scrutiny Committee) and officers**

- 6.1 The Chair and members of the Council's overview and scrutiny committees and related bodies shall:
- 6.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or the Monitoring Officer and other appropriate officers where they consider a decision of the Cabinet might be contrary to the policy framework.
  - 6.1.2 When considering calling officers to give evidence the Committees shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior officer to ensure that more junior officers are not put under undue pressure.
  - 6.1.3 When asking officers to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be expected to give a political view.
  - 6.1.4 Where they consider it appropriate, ask officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegations.
  - 6.1.5 Not to question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.
  - 6.1.6 At all times respect the political impartiality of the officers.
- 6.2 Officers shall
- 6.2.1 Maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
  - 6.2.2 Be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.
  - 6.2.3 Ensure that an officer of sufficient seniority appears before the relevant Committee.

## **7 Relationship between the Chair and Members of other Committees and officers**

- 7.1 This shall apply to all the Council's Cabinet, and Committees, including Planning Committee, Standards Committee, the Regulatory Committees, and Locality Panels and the Chair and members of those Council bodies shall:
  - 7.1.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
  - 7.1.2 Give officers the opportunity to present any report and give any advice they wish to present or give.

## **8 Officer Relationships with Party Groups**

- 8.1 When dealing with the various party groups:
  - 8.1.1 Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.
  - 8.1.2 Any request for advice to a political group or Member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information upon which any advice is based will, if requested, be available to all political groups
- 8.2 When acting in party groups, and dealing with officers, Members shall:
  - 8.2.1 Recognise that attendance at Party Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Party Groups either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.
  - 8.2.2 Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.
  - 8.2.3 Ensure they do not do anything that may compromise officer impartiality.
  - 8.2.4 Ensure that confidential matters are not divulged to non-councillors.

## **9 Members' Ward Roles**

- 9.1.1 Officers must brief Ward Councillors on significant events happening in their Ward in advance of them going public. Examples of such events range from a playing field being opened, to an ASBO being issued to an individual in their area.

- 9.1.2 As set out in the Scheme of Delegations, Members are entitled to be consulted in their capacity as Ward Members before an Officer exercises any powers under the Scheme of Delegation on any issue which may affect a particular ward
- 9.1.3 As set out in the Report Writing Guide, Officers must ensure that Ward Councillors are consulted where relevant on reports relating to issues affecting particular wards so that comments from Ward Councillors can be taken into account before the report is finalised.
- 9.2 When acting in their ward role, Members:
  - 9.2.1 Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.
  - 9.2.2 Recognise the officers' right to suggest that senior officers, the Cabinet, Council or a committee should authorise additional work requested by individual Members.

## **10 Member Access to Documents and information**

- 10.1 Save as provided below every Member of the Cabinet, a Committee and / or Sub-Committee of the Council has a right to inspect documents about the business of that Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.
- 10.2 A Member who is not a member of a specific Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:
  - 10.2.1 He or she can demonstrate a reasonable need to see the documents to perform his or her duties (the 'need to know'); and
  - 10.2.2 The document or papers or information do not contain 'confidential' or 'exempt information'.
- 10.3 An officer should seek the advice of the Monitoring Officer in any case of doubt in relation to the reasonableness of a Member's request to have access to documentation and a Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter
  - 10.3.1 In which he or she has a personal or prejudicial interest; or
  - 10.3.2 Where to do so would be in breach of the Data Protection Act.
- 10.4 A Member must seek the advice of the Monitoring Officer before disclosing information given in confidence, in order that the Member can be advised as to whether such disclosure is reasonable and in the public interest, and whether such

disclosure would be made in good faith and in compliance with the reasonable requirements of the Council.

## **11 Non-Council Members on Council Bodies**

11.1 This Protocol also applies to all those people who are not elected members of the Council but who are members of or attend any of the Council's Committees or any other Council bodies.

## **12 Press Releases**

12.1 All Council press releases

12.1.1 Should be in accordance with the Council's agreed Media Guidelines

12.1.2 Should be issued through the Council's Media/Communications Team

12.1.3 Should be concerned with matters of policy

12.1.4 Should not contain anything of a political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

## **13 Correspondence**

13.1 All correspondence written on behalf of the Council must be written on the relevant headed paper.

13.2 When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the ward member.

13.3 Correspondence between individual Members and officers should not be copied to other Members or officers unless the Member or officer concerned indicates otherwise.

13.4 All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the data protection legislation.

## **14 Breach of the Protocol**

14.1 If the Protocol is breached, then a complaint may be made to the Monitoring Officer who shall consult with the Chair of Standards Committee and if appropriate refer the complaint to the Standards Committee to be considered further.

**15**    **Further Advice**

- 15.1    Any particular cases of difficulty or uncertainty under this protocol should be raised with the Monitoring Officer who will advise how to proceed.

May 2013

Reviewed February 2023

# **SWINDON BOROUGH COUNCIL**

## **MEMBERS PLANNING CODE OF GOOD PRACTICE**

*(First Adopted by the Authority: 2<sup>nd</sup> February 2004)*

# SWINDON BOROUGH COUNCIL

## Members' Planning Code of Good Practice

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# SWINDON BOROUGH COUNCIL

## Members' Planning Code of Good Practice

### Background

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and is based on a Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England.

### Introduction

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of her staff, and preferably well before any meeting takes place.**

**Any complaints covering any breach of the Code should be reported to the Monitoring Officer.**

## 1 Relationship to the Members' Code of Conduct

- Do apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- Do then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk of being named in a report made to the Standards Committee or Council.

## 2 Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. A 'Declaring Interests Flowchart' is attached to this Code.
- **Do** then act accordingly. Unless otherwise permitted under the Members Code of Conduct, where your interest is personal and prejudicial:-
  - **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** try to represent ward/local views, get another Ward/Local Member to do so instead, except where permitted under the Members' Code of Conduct.
  - **Don't** get involved in the processing of the application.
  - **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 personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when 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 personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. For example, where you have a personal and prejudicial interest in a matter, you may address the Planning Committee but only in the same manner as would apply to a member of the public, after which you must leave the room whilst the meeting considers the matter.
  - **Do** notify the Monitoring Officer in writing of your own application and note that:
    - notification to the Monitoring Officer should be made no later than submission of the application;

- the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee

### 3 Fettering Discretion in the Planning Process.

- **Don't** fetter your discretion and therefore your ability to participate in planning decision-making by making up your mind, or clearly indicating that you have made up your mind on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides. Every person making application to the Council or objecting to an application is entitled to expect that in considering the matter before it, the Committee will give consideration to all views that are expressed, that such views will be openly heard, and fairly considered in a balanced way before the Committee's decision is made.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you can have legitimate 'pre-disposition' in relation to a planning application. The statutory position as set out in the Localism Act 2011 is that a Councillor who has expressed a preference for a particular outcome of an application as it proceeds to determination, will not be taken to have had a closed mind when making the decision just because they have previously done or said anything to indicate their view in respect of that matter. However, it is important that a fair-minded observer would think that you were open to changing your mind in the light of different or additional information, advice or evidence presented.
- **Do** be aware that if you are a leading member who has participated in the promotion of schemes such as regeneration on council owned land, or the development of planning policies and proposals, you need not, and should not, normally exclude yourself from decision-making meetings provided that you can demonstrate that you have an open mind in determining planning issues,
- **Do** be aware that you may, however, be considered to have fettered your discretion or be biased, where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:

- you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
  - another local or public authority of which you are a member; or
  - a body to which you have been appointed or nominated by the Council as its representative; or
- you are a trustee or company director of the body submitting the proposal and were appointed by the Council

you should always disclose a prejudicial as well as personal interest and withdraw.

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (for example, where you are also a member of the parish council), provided:
  - the proposal does not substantially affect the well-being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances. If you are a ward councillor representing your ward interests and have made up your mind about a matter either for or against, you must disclose the details of your predetermined position and may continue to represent those ward interests as a spokesperson for your local community, but you should not take part in the vote, to avoid accusations of bias. If you speak on behalf of a lobby group at the decision making meeting, you should withdraw at the end of public speaking, to counter any suggestion of influencing members' decision by your presence.
- **Do** explain that you do not intend to vote because you have or you could reasonably be perceived as having judged the matter elsewhere, so that this may be recorded in the minutes.
- **Do** seek to take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
  - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the member seating area for the duration of that item; and
  - ensure that your actions are recorded.

May 2012

## 4 Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** agree to be briefed by an applicant or developer on an application (especially as a Ward Member). Don't commit to a view. Do consider taking another Councillor or Officer with you to any arranged meeting, if it is possible, according to your discretion. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Head of Planning (Head of Head of Planning, Regulatory Services, Heritage and Libraries) to organise it. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Head of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **In addition in respect of pre-application discussions/presentations by applicants/developers:**

- **Do** engage in pre-application discussions with developers, but follow the rules on lobbying and observe the 'do's' and 'don'ts' contained in *Positive Engagement – A Guide For Planning Councillors (2008)* which is attached to this Planning Code of Good Practice.
- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers. At the start of the meeting it should be explained the merits of the case will not be discussed. If the applicant requests the views of the authority, these will be communicated subsequently and in writing. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.
- **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 Council Committee.
- **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 as other pre-application discussions may well also be taking place.

## 5 Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said and express a preference for a particular outcome, it potentially prejudices your impartiality and therefore your ability to participate in the Committee's decision making if you express an intention to definitely vote one way, regardless of any additional information or evidence that may be provided to you at a later stage.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward/local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum; its acceptance is declared as soon as possible and remember to register the gift or hospitality in accordance with the Council's Code of Conduct on gifts and hospitality for Councillors.
- **Do** copy or pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity, unless you know that it has already been received by the planning department.
- **Do** promptly refer to the Head of Planning any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 6 Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- **Do**, if you are a member of a general interest group, disclose a personal interest where

that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 7 Site Visits

- **Do** familiarise yourself with the location of the site of a planning application you are to consider.
- **Do** try to attend any site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from any site visit is reported back to the Committee, so that all Members have the same information
- **Do** ensure that you treat any site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters that are relevant to the site inspection.
- **Don't** hear representations from any other party with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where the applicant or a third party approaches you, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express definite opinions or views to anyone.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - the site is open to members of the public
  - you feel it is essential for you to enter the site other than through attending any official site visit,
  - you have first informed the Council's Head of Planning about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 8 Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Don't** allow documents to be circulated at Committee meetings which have not previously been submitted to the committee as all parties may not have time to react to the submissions, and you may not be able to give proper consideration to the matter. Moreover, officers may not be able to provide considered advice on any material considerations arising. Those who intend to speak should be made aware of this. The acceptance of circulated material could imply a willingness to take the necessary time to investigate any issues raised and lead to the need to defer the application or risk a complaint about the way the material has been considered. For similar reasons, messages passed to members sitting in planning committees should be avoided. Care needs to be taken to avoid the perception of external influence or bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9 Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning, which may be incorporated into any committee report).
- **Do** contact the Case Officer to seek advice and guidance on the material planning issues related to the application. Officers have a professional obligation to advise any Member or interested party of the material factors to be taken into account in the evaluation of a proposal. This can benefit Members' consideration of the proposal and focus the decision making process on planning matters.
- **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.
- **Don't** insist that an officer should change their professional judgment or decision on a delegated matter but **do** bring all relevant matters to the officer's attention in order that the decision is properly made.

## 10 Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.



- **Do** come to meetings with an open mind and demonstrate that you are open-minded – particularly if you have expressed a pre-disposition before the meeting.
- Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given as part of your motion prior to the vote and be recorded. It may help to have prior discussions of those reasons with planning officers before the meeting. In some cases, it may be necessary to adjourn the meeting for a few minutes for reasons to be properly discussed. In cases where there is a very strong objection from officers as to the planning merits of those reasons, you should consider deferring the planning application to another meeting. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

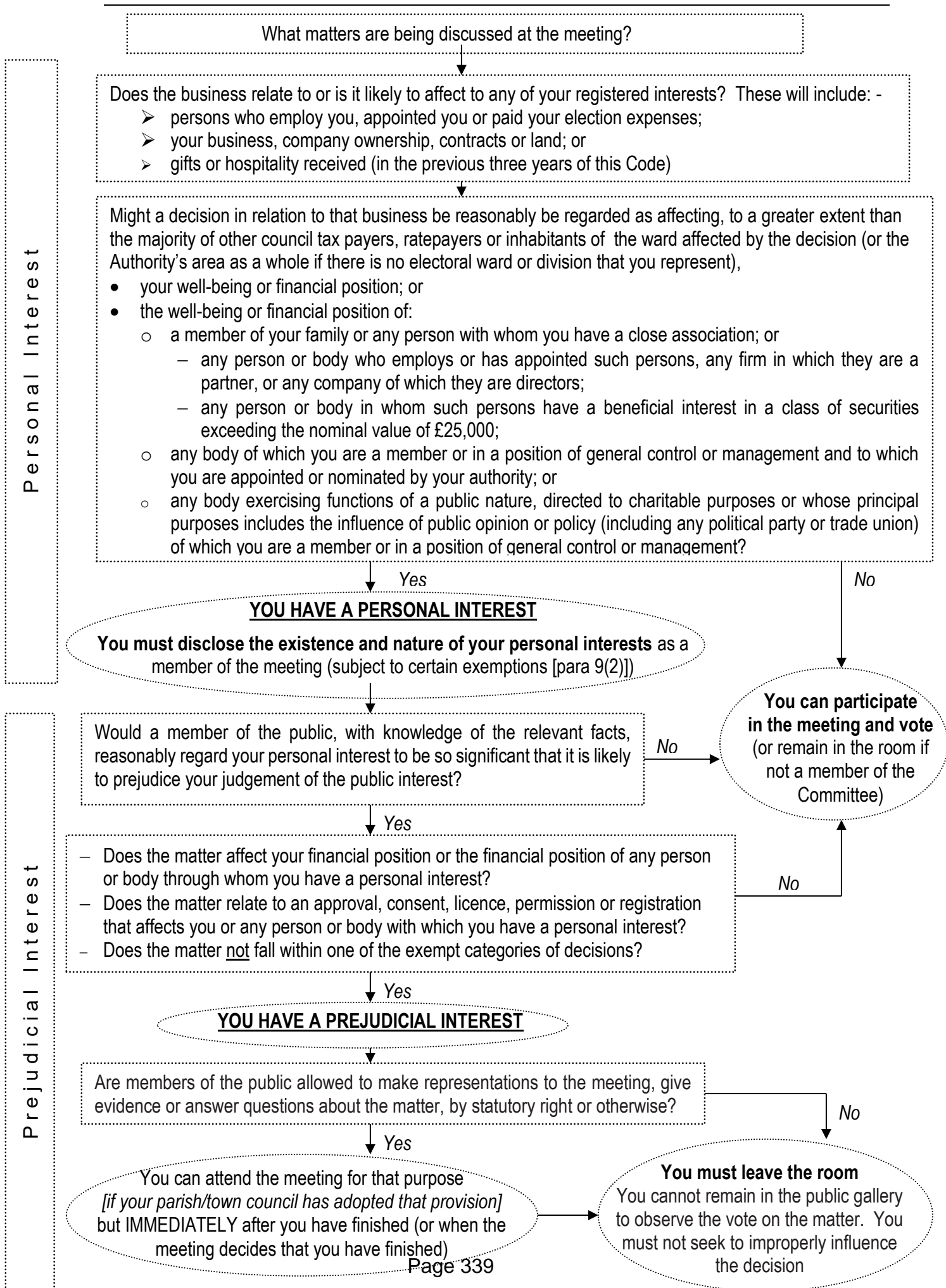
## 11 Training

- **Don't** participate in decision-making at meetings dealing with planning matters if you have not attended planning training provided by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that judgements have been based on proper planning considerations.

Latest Version: February 2023

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**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**  
(Non-Overview and Scrutiny Meetings)



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# Swindon Borough Council's Local Code of Corporate Governance

## 1. What is Corporate Governance

- 1.1 The Council has a key role in governing and leading the communities within the Borough of Swindon. Effective local government relies on public confidence in elected councillors and officials. Effective systems of corporate governance underpin the credibility and confidence in public services.
- 1.2 Corporate governance is a phrase used to describe how organisations direct and control what they do. For local authorities this also includes how a council relates to the communities that it serves. Good corporate governance requires local authorities to carry out their functions in a way that demonstrates accountability, transparency, effectiveness, integrity and inclusion.
- 1.3 Swindon Borough Council is committed to being at the forefront of those local authorities that are able to demonstrate that they have the necessary corporate governance to excel in the public sector.
- 1.4 This code is a public statement that sets out the way in which the Council will meet that commitment.

## 2. Why do we need a Local Code?

- 1.5 Corporate governance is important because it is crucial to:
  - Providing high quality public services. Nationally governance weaknesses have led to service failures and critical situations. High performing organisations, on the other hand, have effective governance arrangements.
  - Raising public trust. The public's trust is increased when the quality of services that they and their families experience is high, and when organisations are perceived to be open and honest in communicating their performance, and in learning from their mistakes.
- 1.6 The Code is based upon the following seven core principles, as set out in the CIPFA/SOLACE document *Delivering good governance in local government – Framework 2016*:
  - Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.
  - Ensuring openness and comprehensive stakeholder engagement
  - Defining outcomes in terms of sustainable economic, social and environmental benefits.
  - Determining the interventions necessary to optimise the achievement of the intended outcomes.
  - Developing the entity's capacity, including the capability of its leadership and the individuals within it.
  - Managing risks and performance through robust internal control and strong public financial management.
  - Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.
- 1.7 This Local Code of Corporate Governance sets out the means by which the Council will meet and demonstrate our commitment to good corporate governance in relation to these seven principles.

## 2. The Principles of Corporate Governance

**(a) *Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law***

- 2.1 The Council is accountable not only for how much they spend, but also for how it uses the resources under its stewardship. In addition, it has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies.
- 2.2 The Council promotes and maintains high standards of ethical conduct of Members and officers through the work of its Standards Committee.
- 2.3 The Council will foster a culture of behaviour based on shared values, ethical principle and good conduct.
- 2.4 This will be evidenced by establishing and keeping under regular review:
- The Council's Constitution
  - Code of conduct for Members and Officers
  - A protocol governing Member/Officer relations
  - A Member's Planning Code of Good Practice
  - Monitoring Officer Protocol
  - Making and recording any declaration of interests
  - Maintaining a register of gifts and hospitality for both Members and staff
  - Anti-fraud and bribery strategy including a Whistleblowing Policy
  - Contract Standing Orders and Financial Regulations
  - Information Security and Governance policies
  - Money laundering policy
  - Production of an Annual Governance Statement
  - Completion of an Ethical Standards checklist annually
  - Ensuring an effective appraisal process is carried out for all staff
  - Maintenance of accurate job descriptions/specifications

**(b) *Ensuring openness and comprehensive stakeholder engagement***

- 2.5 The Council operates for the public good and recognises that it should ensure openness in its activities as well as clear communication and engagement with all groups of stakeholders.
- 2.6 The Council is committed to increasing public involvement in decision-making and devolving power to individuals and local organisations. We will seek and respond to the views of stakeholders and the community. The Council will do this by:
- Forming and maintaining relationships with the leaders of other organisations.
  - Ensuring openness and accessibility to citizens, service users and staff, including partner organisations.
  - Implementing the Council's Consultation Policy and utilising an appropriate range of consultation methods.
  - Making use of local forums at ward, parish, locality and neighbourhood level to maintain communication with all the Borough's communities and other stakeholders.
  - Maintaining an effective complaints process
  - Leader of the Council produces and Annual report to Scrutiny

- Both Standards and Audit Committees produce annual reports setting out activity during the year
- Maintaining a Freedom of Information Act publication scheme
- Meeting the requirements of the Transparency code
- Maintaining the Council's website
- Maintaining a record of decision making
- Publication of reports including a calendar of dates for submitting, publishing and distributing reports
- Maintaining and publishing a Performance dashboard

**(c) *Defining outcomes in terms of sustainable economic, social, and environmental benefits***

2.7 The long-term nature and impact of many of the Council's responsibilities means that it should define and plan outcomes. Decisions should further the Council's purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources.

The Council is committed to an ambitious strategy of achieving the best for our residents and their communities. This is set out in the Council's:

- Corporate plan including the vision, pledges, priorities
- Health and Wellbeing Strategy
- Swindon and Wiltshire Local Enterprise Partnership

The Council will consider the economic, social and environmental impact of policies, plans and decisions by:

- Including impacts when reporting to Members
- Maintaining risk registers which assess risks and provide appropriate mitigations regarding economic, social and environmental impacts
- Undertaking consultation with residents where appropriate

**(d) *Determining the interventions necessary to optimise the achievement of the intended outcomes***

2.8 The Council has a robust decision-making mechanism that ensures defined outcomes can be achieved in a way that provides the balance between the various types of resource inputs while still enabling effective and efficient operations. A clear statement of the Council's priorities and pledges are set out in the Corporate Plan. The Council will ensure the best outcomes are achieved by:

- Determining local needs and targeting resources accordingly
- Ensuring that value for money is obtained
- Engaging with all key stakeholders as appropriate
- Considering and monitoring risks associated with decision making
- Responding positively to the findings and recommendations of both internal and external statutory inspections, audits etc. by putting in place and monitoring the achievement of action plans that address agreed recommendations.
- Ensure that there are effective arrangements in place to monitor service delivery
- Provide senior managers and Members with timely financial and performance information.
- Have prepared, and tested, business continuity and disaster recovery arrangements to ensure resilience in delivering services.

**(e) *Developing the entity's capacity, including the capability of its leadership and the individuals within it***

2.9 The Council needs appropriate structures and leadership as well as people with the right skills, appropriate qualifications and mind set to operate efficiently and effectively and achieve intended outcomes within the specified periods. The Council will do this by:

- Implementing a Members development strategy
- Developing leadership skills and capacity across the Council
- Developing our approach to workforce planning
- Maintaining and developing our appraisal process
- Cascading regular information to Members and staff through staff briefings etc.

**(f) *Managing risks and performance through robust internal control and strong public financial management***

2.10 The Council needs to ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Risk management and internal control are important and integral parts of a performance management system and are crucial to the achievement of outcomes. A strong system of financial management is also essential for the implementation of policies and the achievement of planned outcomes.

2.11 The Council will ensure that the decision making process includes a rigorous assessment of risk, including:

- Financial and procurement implications
- Legal and Human Rights implications
- Diversity impact assessments
- Risk management
- Other implications, including staff, sustainability, health, rural, crime and disorder

2.12 The Council will operate a Risk Management strategy that enables the Council to manage and control risks in order to maximise the quality of service provision, uphold its reputation and achieve value for money. Assurance is provided through:

- Risk management strategy and process including maintenance of the Corporate risk register
- An annual risk-based Internal Audit plan taking in to account materiality, impact and previous audit knowledge
- Maintain an effective Audit Committee
- Maintain a performance dashboard
- Completion of an annual governance statement
- Ensure timely and accurate budget monitoring and reporting
- Effective counter fraud and whistleblowing arrangements are in place

**(g) *Implementing good practices in transparency, reporting, and audit to deliver effective accountability***

2.13 The Council will ensure that those making decisions and delivering services are accountable for them. Effective accountability is concerned not only with reporting on actions completed but ensuring that stakeholders understand and respond as the Council plans and carries out its activities in a transparent manner. Both internal and external audit contribute to effective accountability. The Council will:

- Ensure that Members makes decisions in an open and transparent way
- Record all decisions that are made by Members and officers



- Have rules and procedures which govern how decisions are made
- Maintain an effective Audit Committee
- Ensuring that agreed Internal and External Audit recommendations are implemented
- Ensuring an effective Internal Audit service that has direct access to Audit Committee and Corporate management Team is in place
- Responding positively to inspections (both internal and external)

### **3. Monitoring and Review**

- 3.1 Effective corporate governance requires input from Members and officers across the Council. In order to ensure that the Council's Local Code is put in to practice the following review and monitoring processes are in place:
- 3.2 The Council will ensure that these arrangements are kept under continual review by:
- The work of Internal Audit
  - Reports prepared by managers with responsibility for aspects of this Code
  - External Audit opinion
  - Other review agencies and inspectorates
  - Opinion of the Council's Statutory officers

### **4. Annual Governance Statement**

- 4.1 The Council is required to prepare an annual governance statement in order to report publicly on the extent to which it complies with its own code of governance. This includes how the Council has monitored and evaluated the effectiveness of its governance arrangements.
- 4.2 The purpose of the review will be to provide assurance that governance arrangements are adequate and operating effectively or to identify action that is planned to ensure effective governance in the future.
- 4.3 The preparation and publication of the annual governance statement will meet the statutory requirement of the Accounts and Audit Regulations 2015.
- 4.4 The annual governance statement will be approved by the Council's Audit committee before being signed by the Leader of the Council and the Chief Executive.
- 4.5 The annual governance statement will be published as part of the statement of accounts.

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# RECORDING, PHOTOGRAPHY AND USE OF SOCIAL MEDIA PROTOCOL AND GUIDANCE

## Introduction

Swindon Borough Council is committed to being open and transparent in the way it conducts all its main decision-making meetings which are held in public.

Swindon Borough Council recognises that it operates in a modern digital world where the use of filming and contemporary communication methods such as tweeting and blogging is commonplace. It has responded to the Government's requirements through the "Openness of Local Government Bodies Regulations 2014" to increase citizens' rights to attend and report on meetings and has therefore adopted the following revised "Standing Order" and Protocol / Guide.

## 12. RECORDING OF PROCEEDINGS BY THE MEDIA AND RESIDENTS OF THE BOROUGH

12.- Audio and visual recordings of a meeting of the Council, the Cabinet, Committees and other Council bodies that is open to the public is permitted by legislation. Whilst no prior permission is required, any person wishing to film, photograph or record such a meeting is requested to advise the Mayor, Leader, or Chair of the meeting of their intention to do so. That activity shall be undertaken in accordance with the Protocol included in Part 5 of the Constitution. The Mayor, Leader, or Chair of the meeting shall advise Members that the meeting is being recorded. In order to maintain orderly conduct or prevent misbehaviour or disruption of the meeting, the Mayor, Leader, or Chair of the meeting may exclude any individual who is recording the meeting.

This means that the taking of photographs and audio / visual recording of any meetings that are held in public is generally permitted, preferably with a prior request to the Mayor, Leader, or Chair of the relevant Committee, and in accordance with this protocol.

The purpose of this protocol is to provide guidance, particularly, for members of the public as well as the media on the taking of photographs and / or the audio / visual recording of any Council meeting held in public.

The protocol also refers to the use of "Social Media" at meetings and makes clear that there are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Mayor or Chair does not consider their actions are disrupting the proceedings of the meeting leading to disorderly conduct and/or misbehaviour.

The Local Audit and Accountability Act 2014 and the "Openness of Local Government Bodies Regulations 2014" set out the statutory provisions that permit the recording of proceedings by any person attending the meeting.

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Reviewed: February 2023

## Limitations

Although there is a general presumption in favour of allowing photography, audio / visual recording and the use of media tools at Council meetings, in order to maintain orderly conduct or prevent misbehaviour or disruption of the meeting, the Mayor, Leader, or Chair of the meeting may exclude any individual who is recording the meeting

## Audio and Visual Recording - Your Obligations

Any member of the public or of the media wishing to photograph and / or audio or visually record a meeting must agree to the following:

- a) Any photography or audio / visual recording must take place from a fixed position in the meeting room approved by the Chair so as to minimise disruption to the proceedings;
- b) The use of flash photography or additional lighting will only be permitted for a limited period during the meeting at a point in the proceedings agreed in advance with the Mayor or Chair, so as to minimise disruption to the proceedings;
- c) If the Mayor or Chair feels that any photography, audio or visual recording is disrupting the meeting in any way or any pre-meeting agreement has been breached then the operator of the equipment will be required to stop;
- d) If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed and the operator of the equipment will be required to stop recording and /or photography;
- e) If the Mayor, Leader, or Chair adjourns the meeting, then the operator of the equipment should stop any recording or photography at the point at which the meeting is adjourned;
- f) Those making audio or visual recordings must comply with any request made by the Mayor or Chair regarding respecting the public's right to privacy;
- g) People seated in the public gallery / seating area should not be photographed, filmed or recorded without the consent of the individuals concerned. This also applies to those individuals who may ask a public question, present a petition or make a representation at a Council meeting open to the public and who are seated in a "public seating area";
- h) Use must not be made of an image or recording if consent is refused by an individual;
- i) Photographs, audio, and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

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It should be noted that failure to comply with this Protocol may lead to the refusal of any future requests to photograph or audio or visually record any future Council meetings in view of the risk of future disruption to proceedings.

If a request has been received to take photographs or to audio or visually record a particular meeting, notices to this effect may be displayed in the relevant meeting room.

To assist the public, the Chair will, in accordance with the Council's Standing Order 12, make an announcement that the meeting will be photographed and /or recorded or filmed.

The Council may, on occasion, audio record meetings for minuting purposes only. The relevant Chair will make an announcement to this effect and these recordings will not be made available to anyone outside the Council.

### **Audio and Visual Recording - Your Rights**

If as a member of the public you do not wish to be photographed, filmed or recorded please inform the Committee Officer in attendance at the meeting, or the Mayor, Leader or Chair of the relevant committee if notice that a request to photograph / record has been received is given.

### **Procedure Prior to the Meeting for those Wishing to Record or Photograph a Meeting**

Requests to take photographs or undertake audio or visual recordings of meetings open to the public, either by members of the public or by the media should wherever possible be made to the Committee Officer for the meeting concerned. (Contact details available on the Agenda for the meeting and on the Council's Website or by emailing [committee.services@swindon.gov.uk](mailto:committee.services@swindon.gov.uk).) at least two working days before the meeting.

The request should include the following information as this will assist the Council in making preparations for the meeting to avoid any disruption to the proceedings:

- a) to which meeting this request refers;
- b) the name, organisation (if applicable) and contact details of the person making the request;
- c) what equipment it is intended will be used (e.g. camera/audio recorder/video camera);
- d) what the photographs, or audio / visual recording will be used for and / or where the information is to be published.

### **Procedure at the Meeting**

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Equipment must be set up before the meeting starts. The use of flash photography or additional lighting will only be permitted for a limited period during the meeting at a point in the proceedings agreed in advance with the Mayor, Leader, or Chair. This will be communicated to all relevant parties. This is to minimise disruption to the proceedings.

If the Mayor, Leader, or Chair feels the photography/audio / visual recording is disrupting the proceedings the operator of the equipment will be required to stop.

If use continues the Mayor, Leader, or Chair will ask the person to leave the meeting. If the person refuses to leave then the Mayor, Leader, or Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Anyone asked to leave a meeting because they have refused to comply with the Mayor or Chair's requests may be refused permission to photograph, record or film at future Swindon Borough Council meetings that are open to the public so as to minimise the risk of future disruption to the proceedings.

If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed.

If a meeting for which agreement is given to record or photograph is adjourned by the Mayor or Chair then any recording or photography should stop at the point at which the meeting is adjourned.

## **Social Media**

There are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Mayor, Leader, or Chair does not consider their actions are disrupting the proceedings of the meeting.

Any person can provide a written commentary during a meeting, as well as an oral commentary outside or after the meeting.

If the Mayor, Leader, or Chair feels the use of social media is at the time disrupting the proceedings the Councillor, member of the public or media representative may be required to stop.

If use continues, the Mayor, Leader, or Chair will ask the person to leave the meeting. If the person refuses to leave then the Mayor or Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Councillors and members of the public are reminded that the law of the land applies to social media use – including the law of defamation and the law on public order offences.

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## **Public Question Time at Council Meetings – Protocol and Guidance**

- (1) At ordinary meetings of the Council and other Council Committees and relevant bodies, questions can be asked of the Mayor, Leader of the Council, Cabinet members and the Chairs of committees.
- (2) The total time set aside for such questions and answers will be limited to 15 minutes which can be extended at the Mayor or Chair's discretion.

### **Notice of Questions**

- (3) Written questions, including questions sent by electronic mail, must be received by the Proper Officer no later than 3pm two clear working days before the meeting date. This means that for a meeting held on a Thursday, questions must be received by 3pm Monday (less any intervening bank holiday).
- (4) The period of notice is to allow sufficient time for a response to be formulated.
- (5) Those providing a written question will receive precedence during Public Question Time, with other questioners who have not provided questions in writing only being heard if time permits;
- (6) Where a (non-written) question is put, there is no guarantee that a full reply will be given at the meeting. In these circumstances the Chair will, generally, ask that a written response be provided as soon as possible after the meeting
- (7) The Notice of each question must include the name and contact details of the questioner, (in respect of an organisation, the name of the organisation and the questioner's position within the organisation) and to whom the question is to be put. This same information is required in respect of questions put at the meeting.

### **Scope of Questions**

- (8) The question must be relevant to the powers and duties of the Council and be clear and concise. A question will be rejected where it:
  - (a) does not relate to a matter for which the local authority has a responsibility or which affects the council's administrative area;
  - (b) is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - (c) relates to any non-determined planning or licensing application;
  - (d) requires the disclosure of confidential or exempt information;
  - (e) names or identifies individual service users, members of staff or members of staff of partner agencies;
  - (f) is considered by the Mayor or Chair to be inappropriate for the particular meeting.
- (9) The Mayor or Chair's ruling on rejection of a question will be final following consultation with the Monitoring Officer.
- (10) Where a question is rejected on the above grounds, the questioner shall be advised of the reasons for rejection. Time permitting, the questioner will be given an opportunity to submit an amended question that will be considered afresh against

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the criteria in (8). For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at (3) above.

### **At the Meeting**

- (11) Questions will be dealt with in order of receipt subject to the Mayor or Chair's discretion to group together questions on the same or similar subject.
- (12) Where written questions have been submitted within the requisite notice period, and written answers provided, the Mayor or Chair may choose to take these questions and answers "as read". However, if a questioner wishes to ask his or her question at the meeting, he or she will be allowed to.
- (13) If the questioner prefers, the question may be asked on his or her behalf by another person.
- (14) If the questioner is not able to be present at the meeting and has not made arrangements for someone else to ask the question on their behalf, the Mayor or Chair will indicate that the written reply will be forwarded to the questioner.
- (15) Subject to time constraints, questions submitted in writing by the deadline as referred to in (3) above will be either (a) answered at the meeting, or (b) at the request of the Mayor or Chair in consultation with the Monitoring Officer, referred to officers for a direct written response if they consider the question can be most appropriately handled in that way.
- (16) Subject to time constraints, any questions put at the meeting will be either (a) answered at the meeting, or (b) at the request of the Mayor or Chair in consultation with the Monitoring Officer, referred to officers for a direct written response if they consider the question can be most appropriately handled in that way.
- (17) Where a question is dealt with in the way described in (15 and 16) above, the questioner will be advised of this and provided with a response where possible within ten clear working days of the meeting and this will be copied to all councillors where this is for a meeting of the Council or to all members serving on the Council body concerned.
- (18) The relevant councillor or another Member on their behalf will aim to provide a response to a public question in advance of, or at, the meeting and this will, if required and requested, be followed up by a written copy of the response being sent to the questioner where possible within ten working days of the meeting.
- (19) Any questions for which notice has been given in accordance with (3) above which cannot be dealt with during the time allocated for public questions, or where no advance notice has been provided and an immediate response cannot be provided, will be dealt with by a written response sent to the questioner where possible within ten working days of the meeting and copied to all councillors.



## **Supplementary Questions**

- (20) A questioner will be permitted to ask one supplementary question, irrespective of how many questions s/he may have asked, which must be relevant to the original question or arise from the response given. The Mayor or Chair may reject the supplementary question on the grounds listed in (8) above (Reasons for rejection).
- (21) The Member to whom the question has been put or another Member on their behalf, shall answer the supplementary question if he or she is able to do so at the time. If this is not possible, a written response will be provided to the questioner where possible within ten working days of the meeting.

## **Form of Response**

- (22) A response may take the following forms:
  - a) a direct oral answer;
  - b) where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents;
  - c) a written reply.

## **No Debate or Discussion on Questions**

- (23) No debate shall be allowed on questions presented or responses given.
- (24) In exceptional circumstances only, the Mayor or Chair may allow discussion involving other councillors.
- (25) No decision can be made arising from a question other than to refer it to the appropriate Council body by way of a motion which shall be moved, seconded and voted on without discussion.

## **Circulation of Questions and Responses**

- (26) As soon as practicable following receipt of a written question, copies will be circulated to the Member of the Council or Council body to whom the question is to be put and any other relevant councillors.
- (27) Copies of questions received in accordance with Standing Orders and this Protocol and Guidance will be provided to all councillors as appropriate prior to the meeting.
- (28) Copies of responses where available, will be circulated to councillors at the meeting unless this is not possible due to exceptional circumstances.

## **Record of questions**

- (29) The minutes of the meeting shall only record the name of the questioner (or in respect of an organisation, the name of the organisation and the questioner's position within the organisation), the subject matter, and the name of the person

May 2014  
Reviewed July 2023

- replying.
- (30) A summary of both the written and verbal questions and responses made available to a meeting, and that are considered in accordance with Standing Orders and this Protocol and Guidance, will also be made available subsequently on the Council's website as an annex to the Minutes of that meeting.

May 2014  
Reviewed July 2023

May 2014  
Reviewed July 2023

**Part 6**

**Councillors' Allowances Scheme**

## **COUNCILLORS' ALLOWANCE SCHEME**

Swindon Borough Council, in exercise of the powers conferred by the Local Authorities (Members Allowances) (England) Regulations 2003, has made a scheme for the payment of Councillors' Allowances for 2023/2024.

The Council, on the recommendation of the Independent Remuneration Panel on Councillors' Allowances, agreed at its meeting on 9<sup>th</sup> July 2020 to index link increases in the Basic Allowance to any percentage increase in pay awarded to local authority staff nationally, for a period of four years commencing in May 2021 and ending in May 2025. The Council also agreed that the levels of Special Responsibility Allowances, Travel, Subsistence and Dependent Care Allowance remain the same as the levels for 2020/2021 until reviewed.

### **Rates and Allowances**

These are determined from time to time by the Council having regard to the recommendation of the Council's Independent Remuneration Panel on Councillors Allowances.

### **Total Annual Allocation**

Swindon Borough Council has set aside £509,580 for 2023/2024 for the payment of Councillors' Basic Allowances (£8,940 x 57) with funding available for Special Responsibility Allowances, and other Allowances (e.g. Travelling and Subsistence) as specified in the Scheme.

An additional allocation of £13,500 is made for Mayoral Allowances that do not form part of this Scheme.

### **ALLOWANCES APPLYING TO ALL COUNCIL MEMBERS**

#### **Basic Allowance**

- (a) Basic Allowance is intended to recognise the time devoted by Councillors to their work, including approved duties, Council meetings and such inevitable calls on their time as meetings with Constituents, and incidental costs for which no other provision is available.
- (b) The Basic Allowance for each member will be £8,940 for 2023/2024.

#### **Travelling and Subsistence Allowances**

Members and Non-Elected (co-opted) Members are entitled to receive payment of travelling and subsistence allowance, where expenditure has been necessarily incurred on travelling inside or outside the U.K. or on subsistence, for the purposes of performing approved duties as set out in the Appendix to the Scheme.

## Travel

The rate for the use of a private car shall not exceed 45p per mile (Inland Revenue Tax Threshold).

The rate for motorcycles shall not exceed 16.5p per mile.

The rate for pedal cycles shall not exceed 30p per mile.

The rate for travel by taxi shall not exceed:

- (a) in cases where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity (tip) paid (providing that all appropriate receipts are attached); and
- (b) in any other case, the amount of the fare for travel by appropriate public transport.

## Passengers

The rate for the use of a private car above may be increased for the "carriage of each passenger (not exceeding 4) to whom a travelling allowance would otherwise be payable". A rate of not more than 3 pence a mile for the first passenger and 2 pence per mile for the second and subsequent passengers may be claimed.

Bus fares, train fares, ferry fares, tolls, and parking fees will be reimbursed at actual cost providing that all appropriate receipts are attached.

The rate of travel by a "hired vehicle" other than a taxi shall not exceed the rate that would apply had the vehicle belonged to the Councillor / Co-opted Member who hired it.

## Rail and Air Travel

Standard Class rail fare or ordinary fare for other public conveyance, or the appropriate cheap or economy rate where applicable shall apply in all cases.

Standard Class rail travel should always be used unless the train's Standard Class accommodation is full, in which case it is in order to travel First Class and pay the surcharge.

## Travel Concession Cards

Councillors and non-elected Members who are eligible to hold a senior citizens rail card or similar concession card for rail or bus travel can purchase them and be reimbursed by the Borough Council through the normal expenses' claim mechanism, providing that by doing so there is a reduction in the cost of allowances claimed from the Council. Cards and similar forms of Concession must be purchased in conjunction with travel associated with an "Approved Duty" and this clearly indicated on the Councillors' Allowances Claim form.

## Rail Travel

The Council can arrange for Councillors travelling by rail on Approved Duties to be issued with a "rail travel warrant / tickets" in advance of their departure. For details please contact the Committee and Member Services Section via [CommitteeServices@swindon.gov.uk](mailto:CommitteeServices@swindon.gov.uk).

### Air Travel

The rate for travel by Air -

- shall not exceed the rate applicable to travel by an appropriate alternative means of transport, together with an allowance equivalent to the amount of any saving in subsistence allowance resulting from travel by air;
- is dependant on approval being given "in advance" by the Chief Legal Officer in consultation with the Leader of the Council / Chair of the Cabinet, and
- that in the UK the saving in time is so significant as to justify payment of the fare for travel by air;
- the amount paid is based on the ordinary (economy) fare or any available cheap fare for travel by regular air service.

### Travel General

Members and Non-Elected members are entitled to make travelling claims from their home to the venue of an approved duty.

For journeys from work to an approved duty and then home, they should deduct their normal work to home mileage.

If a Member or Non-Elected member is required to leave work to attend an approved duty, and subsequently returns to work, they are entitled to claim the number of miles travelled.

### Subsistence Allowances

Subsistence allowance claims must only be made where actual expenditure has been incurred. All appropriate receipts in support of subsistence claims must be provided and reimbursement will only be made up to the maximum levels set out below:-

- |       |   |        |
|-------|---|--------|
| (i)   | Breakfast allowance (more than 4 hours away from normal place of residence) start before 7 a.m.                             | £5.85  |
| (ii)  | Lunch allowance (more than 4 hours away from normal place of residence, including the lunchtime between 12 noon and 2 p.m.) | £8.05  |
| (iii) | Evening meal allowance (more than 4 hours away from the normal place of residence ending after 7 p.m.)                      | £15.20 |

In the case of absence that covers more than one Subsistence period then Councillors are permitted to combine these to form one Subsistence claim.

### Meals on Trains

When main meals (that is breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full. Where the cost of meals taken on trains is reimbursed, absence from the normal place of residence must be consistent with the absences listed.

This provision will also apply to any air travel where meals are taken during a period for which there is an entitlement to subsistence allowance and where a charge is made by the airline concerned,

Please note that claims must not be made where any meal is provided free of charge by an authority or outside body.

### Accommodation

In the case of an absence overnight from your usual place of residence you are entitled to claim:

- (i) In London or at the Annual Conference of the Local Government Association / Conference of Local Education Authorities - £110.00
- (ii) Elsewhere in the U.K. - £93.50

These amounts relate to accommodation only and are not intended to include any meals for which separate allowances are available as above.

If an approved duty starts at such a time that it is not possible to be at the venue at the start of the event, then claims will be accepted for overnight stays subject to approval being gained in advance from the Chief Legal Officer and the Leader of the Council.

All appropriate receipts should be submitted with each claim made.

### Dependant Care Allowances

Councillors, Co-opted (Non-Elected) Members and other persons serving on the Council and / or its Committees, who are responsible for providing care to children and / or dependant relatives qualify for a Child Care / Dependant Relatives Allowance to assist with spending incurred in paying for care of the child or dependant relative whilst attending approved duties.

The allowance will cover paid care for the following that live with the claimant:

- children aged 15 years and under
- elderly relative requiring constant care
- disabled relative requiring constant care
- relative with learning disabilities requiring constant care

The paid carer cannot be a member of the immediate family or household.

The allowance will be the actual fee per hour, per child/dependant relative, but not exceeding £20.00 per hour.

Claims for Child Care / Dependant Relatives Care should be made on the appropriate Councillors' Allowances form.

Child Care / Dependant Relatives Care Allowance is assessed as income for benefits and income tax purposes and will therefore be paid through the Council's payroll.

All appropriate receipts for dependent care allowances should be submitted with each claim made, and should be signed by the carer.

\* Reference to "the Council and its committees" should be understood as referring to the Council, the Cabinet and such other Committees and bodies as shall be established from time to time.



**ALLOWANCES APPLYING TO CERTAIN COUNCIL MEMBERS AND  
CO-OPTED NON-ELECTED MEMBERS**

**Special Responsibility Allowances**

For each year a Special Responsibility Allowance shall be paid to those Councillors who hold special responsibilities in relation to the work of the Council. Only one Special Responsibility Allowance is payable. If a Councillor is appointed to more than one position where a Special Responsibility Allowance is payable, then the larger of the allowances will be paid. The Council has agreed that the following Special Responsibility Allowances will be payable in the 2023/24 Municipal Year.

<b>Type of Allowance</b>	<b>BA Multiplier</b>	<b>Allowance</b>
Leader of the Council	3	£26,820
Deputy Leader of the Council	1.85	£16,539
Cabinet Member	1.5	£13,410
Chair of Audit	0.75	£6,705
Chair of Overview	0.75	£6,705
Chair of Scrutiny and Leader of the Opposition	1.5	£13,410
Chair of Scrutiny <u>if not</u> Leader of the Opposition	0.75	£6,705
Chair of Planning	0.75	£6,705
Chair of Health and Wellbeing Board	0.75	£6,705
Leader of the Opposition <u>if not</u> Chair of Scrutiny	0.75	£6,705
Leader of Minority Group	0.25	£2,235
Chair of Licensing	0.75	£6,705
Chair of Standards	0.75	£6,705
Co-opted Standards Members	0.15	£1,341
Co-opted Health and Wellbeing Board Members	0.15	£1,341
Independent Persons	0.15	£1,341
Chair of Joint Swindon and Wiltshire Police and Crime Panel if a Swindon Councillor	0.75	£6,705
Vice-Chair of Joint Swindon and Wiltshire Police and Crime Panel if a Swindon Councillor	0.25	£2,235

**Mayoral Allowances**

Mayor	£10,000
Deputy Mayor	£3,500

**Co-optees (Non-Elected Members) Allowances**

All co-opted members serving on Council bodies are entitled to claim travelling, subsistence and dependent care allowances for Approved Duties carried out both within and outside of the Borough boundary based on the level of Travel and Subsistence Allowance agreed for Councillors.

## **WITHDRAWAL OF ALLOWANCES**

Where a Councillor has been wholly or partially suspended from his responsibilities and / or duties as a member of the Council there will be provision for the withdrawal of all allowances payable (or part, if applicable, in relation to suspension only of Special Responsibilities held).

There will be also be provision for the repayment of any allowance that has been paid in respect of a period when a Councillor was suspended or had ceased to be a member of the Council. If the suspension is rescinded then any amount of unpaid allowance will be reimbursed.

## **FORGOING ALLOWANCES**

Individual Councillors may give notice in writing that they wish to forgo their entitlement to all or any part of their entitlement to allowances. Notice should be sent to the Chief Legal Officer.

## **CLAIMS AND PAYMENTS**

### **Claims**

Claim forms are available from the Committee and Member Services Section. A continuation sheet is also available for when more than one claim form is required for each month.

Properly completed forms must be submitted to Committee and Member Services before the 1st day of each month (or nearest possible date when the 1st falls on a weekend). This is necessary as the Council's Payroll team require that completed and authorised forms must be with them by the 2<sup>nd</sup> working day of each month in order for payments to be processed and made in that month's pay round.

The time limit within which any claim for travelling, subsistence and dependant care allowance must be made by the person to whom they are payable is **two months**.

### **Certification**

All claims have to be certified by Committee and Member Services officers to ensure that they relate to an Approved Duty as defined in this Scheme.

All appropriate receipts must be submitted with each claim made for those specific travel and subsistence allowances specified in the relevant sections of this Scheme.

To help the Council certify that you are attending an "Approved Duty" if you attend a meeting of an outside body or attend meetings at the request of a Council officer you should provide supporting information with your claim. Failure to do so may delay payment of your claim.

For example you may:-

- (i) attach the agenda front sheet or minutes of that meeting to your claim form if they indicate your attendance;
- (ii) attach letters or correspondence from the Council officer concerned requesting your attendance at the meeting referred to on your claim form.

**It is a Councillor's responsibility to ensure the accuracy of any claim submitted.**

The Council's Internal Audit Service may undertake visible sampling of claims made by Councillors to ensure that accurate claims are being made.

### **Payments**

The payment of allowances and related matters are handled within the Payroll Section. If you have enquiries regarding your allowance payments please contact the Council's Payroll Team at [PayrollServices@swindon.gov.uk](mailto:PayrollServices@swindon.gov.uk).

Any more general queries concerning Councillors' Allowances, Approved Duties and the provisions of this Scheme of Allowances should be directed to Committee and Member Services via [CommitteeServices@swindon.gov.uk](mailto:CommitteeServices@swindon.gov.uk).

The following points should assist you to understand how the allowances are paid and answer some of the general points that could arise from time to time:

- Records of Councillors allowances showing the amount and nature of the payment are open to inspection by Local Government electors resident in the area and are subject to both internal and external audit. They are required by law to be publicised in the local press each year.
- Claims will not be required for Basic Allowance and Special Responsibility Allowance as these will be paid on a monthly basis.
- New Councillors and retiring Councillors will be paid allowances pro rata to their period of office.
- Claims may be made by Co-opted Members (Non-Elected Members) on the standard form for Non-Elected Members available from the Committee and Member Services Section (or from the Payroll Section), and the Council's Intranet.
- Claims may be made for Travel, Subsistence and Dependant Care Allowances in accordance with the Approved Duties defined in the Appendix to the Scheme.
- It is important that the claim form is completed fully, including, date, start and finish times, journey details and place of duty. For claims relating to meetings of outside bodies and meetings attended at the request of Council officers, invitations to attend and / or agenda front sheets must be attached. If they are not this may lead to

payments being delayed or claims being referred back to the Councillor concerned for clarification. The mode of travel should be indicated and whether travelling by car, motorcycle or pedal cycle the mileage must be entered.

- The separate financial columns on the claim form should be correctly totalled. Councillors must sign and date the claim and cross through any unused lines and columns.

Please note that claims, which have not been completed fully, which do not have adequate supporting documentation or which are more than 2 months old, will not be authorised and will be returned.

### **Taxation of Members' Allowances and Expenses**

Basic, Special Responsibility and Dependant Care Allowances count as earnings for benefits (social security) purposes and income tax. Councillors can be affected, therefore, both as contributors and beneficiaries of the Social Security Scheme and accordingly National Insurance contributions will be deducted unless the payments fall below the threshold limit.

Councillors can find out more details about Benefits and Income Tax that may affect them by accessing the following website - [www.gov.uk](http://www.gov.uk) and follow the links to benefits or Income Tax. Councillors can also contact the National Income Tax Enquiry Line on 0300 200 3300.

The Local Government Information Unit has published a booklet on the interaction of Councillors' Allowances with the tax and social security benefits system.

*Please note that Council officers must not give advice on Tax and Social Security issues.*

### **Deductions - Political Affiliations**

The Council is able to arrange to deduct from Councillors' Basic Allowance on a monthly basis affiliation fees to certain political organisations relating to a Councillor's Work (e.g. Association of Labour Councillors). Members wishing to make use of this service should request the organisation concerned to write to the Council to provide the necessary authorisation, with details of the deduction to be made, amount, and address for payment. Queries concerning this service should be made to the Payroll Team (PayrollServices@swindon.gov.uk) or Committee and Member Services (CommitteeServices@swindon.gov.uk).

Chief Legal Officer  
May 2023

## Approved Duties

(Reference to "the Council and its committees" should in all cases be understood as referring to the Council, the Cabinet and such other Committees, Boards, Panels, Working Parties, Groups and Sub-Groups as shall be established from time to time).

Allowances are payable for the following Approved Duties:-

- (1) **Meetings of the Council and its committees** (Including "in house" Training and Development events and cases where a Member is invited by the Chair of the meeting or officially notified to attend a meeting of a committee of which he/she is not a Member.)
- (2) **Formal briefing meetings** provided Members of at least two political groups have been invited to attend.
- (3) **Ad hoc briefings, training sessions, presentations, seminars and on-site inspections (site visits) or other visits** authorised in advance to which members of at least two political groups have been invited to attend.  
(In accordance with the Council's Scheme of Delegations the appropriate Officer in consultation with the relevant Cabinet Lead Member or Chair of the Cabinet and the Chief Legal Officer may authorise / approve the duty.)
- (4) **Attendance as a representative of the Local Education Authority at a shortlisting meeting or at an interviewing panel** for a senior post in an education establishment provided Members of at least two political groups have been invited to attend.
- (5) **Attendance at the following "Annual Tours" by Members of the Council:-** New Member Induction, Borough Farms, Housing Areas and Planning and Transport Sites.
- (6) **Attendance of meetings of the Schools Governors, Education and Community Forums**, providing that Members from at least two political groups have been invited to attend.
- (7) **Attendance at outside conferences, courses and seminars** - The attendance of Members at conferences, external courses and seminars shall normally be limited to one Member of a political group per event. Exception to this may be granted with the approval of the Chief Executive after consultation with the Chief Legal Officer, the Cabinet Member with portfolio responsibility, and / or the Leader of the Council / Chair of the Cabinet.

The only automatic exceptions shall be the Local Government Association (LGA) Annual Conference, which may be attended by the Council's representatives on the Association, including Members appointed to serve on LGA committees, and those other Conferences listed in the Schedule to the Scheme.

Attendance at conferences, courses, seminars etc. must be authorised in advance by (i) the appropriate committee; and (ii) the appropriate Officer in consultation with the Chief Legal Officer, the Cabinet Member with portfolio responsibility, and / or the Leader of the Council by way of the Cabinet Member Briefing Note process.

- (8) **Attendance at joint meetings with other local authorities and other statutory bodies** authorised by the Council and /or its committees.
- (9) **Any other meeting, the holding of which has been authorised by the Council or its committees**, provided members of at least two political groups have been invited to attend.
- (10) **Attendance as a representative of the Council at meetings of the Local Government Association (LGA) and at South West Councils (including at the South West Strategic Leaders Board)**, their committees, sub-committees, working parties and for any appointments to represent those organisations on associated bodies.
- (11) **Meetings of the bodies referred to in the Schedule attached to the Scheme** to which the Member has been appointed or nominated to attend by the Council and / or its committees for the period of appointment (and to such other meetings / organisations as may be approved from time to time by the Council and / or its committees.)
- (12) **Visits by Members to private and voluntary homes** in accordance with a programme organised by officers.
- (13) **Visits by Members to Schools** in accordance with a programme organised by officers.
- (14) **Attendance at official opening ceremonies** as may be approved in advance of the event by the Chief Executive in consultation with the Chief Legal Officer and the Leader of the Council.
- (15) **Meetings, including public meetings, by prior arrangement with or at the request of Council Officers on Council business** and where an advance invitation has been received from the organisation/officer concerned.
- (16) **Meetings with Community Councils, Parish Councils, Residents Associations and other such Associations** relevant to their Ward, where an advance invitation has been received from the organisation concerned.
- (17) **Meetings with Government Ministers, MPs and Civil Servants and Official "Goodwill" visits, including Parliamentary Receptions and Briefings** subject to a Member being authorised to attend by the Council and / or its committees or when it is not practicable, in advance, by the Chief Executive or the Chief Legal Officer and the Leader of the Council.

- (18) **Any other duty or class of duty** as may be approved **in advance** by the Cabinet or in the case of an individual duty by the Chief Executive after consultation with the Chief Legal Officer and the Leader of the Council.

An advanced invitation may take the form of a dated Letter or E-Mail, Agenda Front Sheet, Memorandum or Signed Hand Written Note from the organisation/officer concerned. A copy of the "invitation" should be attached to the relevant claim form when submitted for payment.

## **Schedule**

Archaeological Advisory Body Of the Swindon Development Trust

Arts Council England – South West

Association of Public Service Excellence

Braeside Management Committee

Common Farm Solar CIC Directors

Cotswold Country Park

Cricklade Country Way Partnership

England’s Economic Heartland Strategic Transport Forum

Forward Swindon Commissioning Board

Great Western Enterprise

Health and Wellbeing Board

Highworth Recreation Centre Management Committee

Joint Archive Board

Joint LEP Scrutiny Panel

Joint Committee of the National Parking Adjudication Service

Local Government Association

Local Government Information Unit

Lydiard Park Forum

North Wessex Downs Area Of Outstanding Natural Beauty Partnership Board

Patrol (Parking and Traffic Regulations Outside London) Adjudication Joint Committee and Bus Lane Adjudication Service Joint Committee

Plas Pencelli Management Committee

Public Power Solutions (PPS Board)

Rights of Way Local Access Forum

South West Councils

South West Councils Employers Panel

South West Councils Resources Committee



South West Regional Executive Board for Asylum Seekers and Refugees

South Western Ambulance Service Foundation (formerly Great Western Joint Ambulance)

Swindon Adoption Panel

Swindon Ocotal Link

Swindon Portage

Swindon Town Deal Board

Town Twinning Network

Viridor Credits Environmental Company Steering Group

Wessex Reserve Forces and Cadets Association

Wiltshire, Swindon and Oxfordshire Canal Partnership

Wiltshire Community Land Trust

Wiltshire Historic Buildings Trust

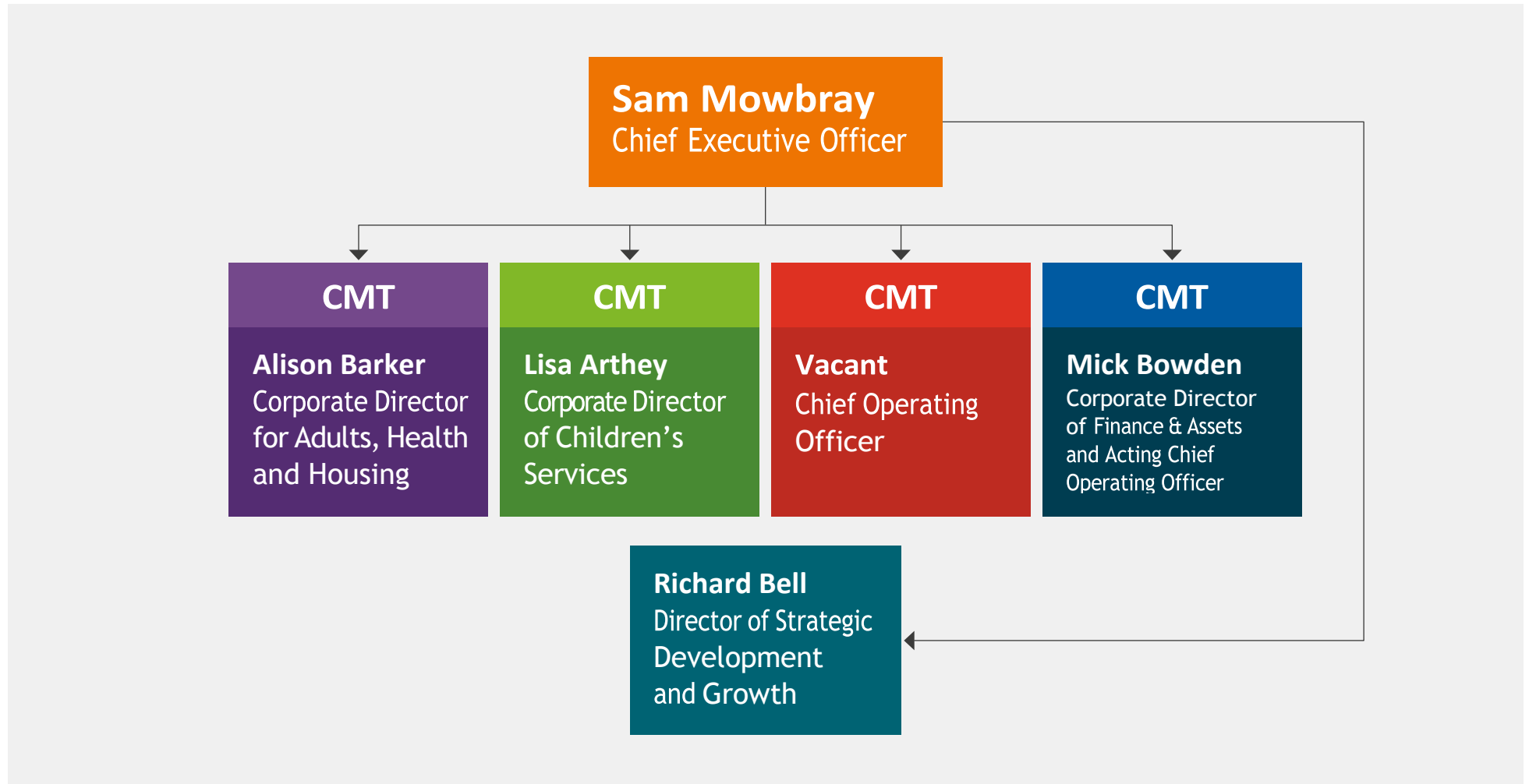
Wiltshire Pension Fund Committee

\* It is noted that external organisations, bodies, conferences and events occasionally change their names or titles. Where this occurs during the course of a Municipal Year but the relationship to the Council and the Council representation remains the same the organisation / event will be seen as being represented on this schedule.

Updated: May 2023

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# Corporate Management Team (CMT)



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**Part 8**

**Scheme of Delegations and Designations of Proper  
Officers**

**SWINDON BOROUGH COUNCIL  
SCHEME OF DELEGATIONS**

**DESIGNATIONS OF "PROPER OFFICERS"**

Updated: May 2023

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## **SCHEME OF DELEGATIONS**

### **Introduction**

- (a) This scheme of delegations is part of the Council's Constitution and sets out the powers/functions delegated to officers.
- (b) All references to Acts, Orders, regulations etc. in the Scheme of Delegations shall be deemed to include references to amending, substituted or extending legislation in force from time to time.
- (c) Any reference to the power to prosecute or to enforce the provisions of any Act, Order or Regulation etc., or to commence or institute legal proceedings in respect of any matter shall include the power to decide whether to prosecute, enforce provisions or judgements or commence proceedings, as well as all other action in the matter (including in appropriate cases, the power to withdraw proceedings).
- (d) With regard to Article 15.03, that changes to the Constitution will only be approved by the full Council (or Special Committee), such article will not apply in relation to proposed changes in the job title and delegations to an officer in the Council's Management Structure (Part 7 of the Council's Constitution refers). The approval of such changes is delegated to the Chief Executive (rather than by Council or Special Committee), in consultation with the Group Leaders, with the Chief Legal Officer then authorised to make the necessary changes to the Management Structure chart in the Constitution.

### **General Delegations**

- (G1) Duty to consult before exercising delegation

Any officer or officers exercising powers under the Scheme of Delegations shall have regard to any resolution of the Council on any matter of principle or policy relating to the power being exercised and shall consult, as appropriate, with the relevant Cabinet Member and/or Ward Councillor(s). In exercising this delegation, the Cabinet Member shall determine if the decision is considered high profile or contentious, in which case the consultation is to be recorded by way of a Cabinet Member Briefing Note.

- (G2) Requirement to publish delegated decisions

To facilitate the accountability, openness, transparency and scrutiny of decisions made under delegated authority, any officer dealing with a matter under a delegated authority shall keep an adequate record of the exercise of that power in accordance with the Council's reporting arrangements, in a form determined by the Chief Legal Officer. This shall consist of making all Cabinet Member Briefing Notes available to the Members and the public through the Council website, unless such a decision is deemed private and confidential in accordance with Schedule 12A of the Local Government Act 1972.

(G3) Authority to delegate to another officer

In any case where an Officer is appointed or authorised to exercise powers and/or functions under the Scheme of Delegation s/he may

- (i) authorise such other Officer under his or her direct control to exercise the powers and/or functions on his/her behalf as s/he may determine and
- (ii) may make such arrangements for the exercise of such powers and/or functions in the event of his/her being absent or otherwise unable to act, by any other Officer of the Council under his/her direct control as s/he considers appropriate; subject to such authorisation and /or such arrangements being in written form indicating the Officers empowered to exercise the powers and/or functions, and the powers and/or functions involved, and to a copy being lodged with the Chief Legal Officer.

(G4) Authority to approve Members' attendance at conferences

The Chief Executive, Corporate Directors, Chief Operating Officer, Directors and Heads of Service, and other officers nominated by them, in consultation with the appropriate Cabinet Member, are authorised to approve Members' attendance at external conferences, courses, seminars and similar meetings.

(G5) Authority to inspect land and premises

The Chief Executive, Corporate Directors, Chief Operating Officer, Directors and Heads of Service, and other officers nominated by them, are hereby authorised to enter and inspect land and premises and carry out tests in pursuance of such of the Council's statutory functions as are within their respective terms of reference, and to act as designated officers in any contracts entered into by the Council which are being administered by them.

(G6) Authority to affix the Common Seal

The Chief Legal Officer is authorised to affix the Common Seal to contracts required by Standing Orders to be executed under the Common Seal and to all other documents required to be sealed, including the use of electronic seals where possible.

(G7) Authority to exercise General Power of Competence within service areas

The Chief Executive, Corporate Directors, Chief Operating Officer, Directors and Heads of Service are authorised to exercise the '*General Power of Competence*' in their respective service areas, in consultation with the relevant Cabinet Member and relevant Ward Councillors, provided that any resource implications are fully assessed and can be contained within existing budgets and, except in an emergency or urgent situation, are in accordance with the following Protocol for delegated use of the power:-

- a) The proposals are legal, funded, and consistent with the Council's policy position;
- b) That Ward Councillors, Cabinet Members and/or other appropriate Members are consulted;
- c) That the appropriate decision-making process is undertaken (e.g. Officer Decision Notice etc)
- d) If objections or other proposals are raised, do not proceed without agreement of Cabinet Member, Cabinet or the Leader.

(G8) Exercise of general competence in an emergency situation

In an Emergency situation, the Chief Executive, Chief Operating Officer and Corporate Directors, following consideration at a Gold Meeting, are authorised to exercise the 'general power of competence' in their respective service areas in consultation with the Leader and the relevant Cabinet Member. Where a matter would ordinarily be reported to full Council, following consideration by the section 151 officer and in consultation with the Leaders of all political Groups, provided such decisions are recorded using an Officer Decision Note and are reported to the next appropriate Cabinet or Council Meeting

(G9) Exercise of authority in an urgent situation

If necessary, in the best interests of the Council, the Chief Executive is authorised to act in any urgent situation, subject to consultation with the Leader or in his absence, the Deputy Leader, and provided that such use of power is referred to the next appropriate meeting of Cabinet or Council with an explanation for the use of such power.

(G10) Re-allocation of existing delegations when senior officer posts are vacant or removed

In the event of any of the Corporate Directors, Chief Operating Officer, Director or Head of Service posts being unfilled or removed from the establishment, the Chief Executive shall be authorised to appoint an appropriate officer to carry out the duties of that post, unless statute otherwise directs.

(G11) Re-allocation of existing delegations when posts are altered, removed or vacant

In the event of any post exercising delegated powers being unfilled or no longer on the establishment, the Chief Executive may authorise such delegation to be exercised by such other officer as he/she may determine, subject to:

- (i) such arrangements being in written form - indicating the officers empowered to exercise that delegation, and
- (ii) a copy being lodged with the Chief Legal Officer (Monitoring Officer).
- iii) In the absence of any such authorisation, the Chief Executive shall be empowered to exercise the delegated authority.

# CHIEF EXECUTIVE (CE)

No.	Subject/ Enabling Statute	Authority	Officer
<b>Inspections</b>			CE
1	Inspections <i>Local Government Changes for England Regulations 1994 Paragraph 26(2)</i>	With the Chief Legal Officer, together with such other officers as they shall determine, to be authorised to inspect and take copies of any books, documents, papers or records of whatever description, wherever held and in whatever form.	
<b>Indemnities</b>			CE
2	Indemnities <i>Local Authorities (Indemnities for Members and Officers) Order 2004</i>	To approve the granting of an indemnity in accordance with the Council's Indemnity Policy.	
<b>Council's Management Structure</b>			CE
3	Changes in the job title of an officer and responsibilities in the Council's Management Structure	To approve changes in the job title and role of an officer in the Council's Management Structure in consultation with the Group Leaders. ( <i>The Chief Legal Officer is authorised to make consequent changes to the Management Structure chart and scheme of delegations in the Constitution.</i> )	
<b>Elections</b>			CE
4	Elections	To be (a) the Electoral Registration Officer for the Constituencies of North Swindon and South Swindon, and (b) the Returning Officer for the elections of Councillors of the Borough of Swindon and Councillors of Parish Councils within the Borough, and the conduct of other elections and referenda under relevant legislation.	

# CORPORATE DIRECTOR OF FINANCE AND ASSETS (S151 OFFICER) (CDFA)

No.	Subject/ Enabling Statute	Authority	Officer
<b>Council - Financial Management</b>			<b>CDFA</b>
5	Financial Management of the Council <i>Accounts and Audit Regulations 2015</i>	To be responsible for ensuring that the Financial Management of the Council is adequate and effective and has a sound system of internal control which facilitates the effective exercise of its functions and which includes the management of risk.	
6	Award of Government Grants	In consultation with the appropriate Cabinet Member, to be the authorised officer to accept the award of Government Department grants.	
417	Determination of grant applications	To approve, or refuse, grant allocations from the various budgetary provisions for one-off grant funds, subject to: (i) a maximum of £15,000 approval on any one grant (this amount to be reviewed annually); (ii) any grant being "one-off", with no recurring liability; and (iii) applications being in accordance with the current Council criteria relating to the relevant grant fund.	
419	One Swindon and Community Budgets	Administration of the Council's Community Budgets.	
<b>Council Tax and National Non-Domestic Rates</b>			<b>CDFA</b>
7	Collection and General funds <i>Local Government Finance Act 1988</i>	To establish, maintain and manage a Collection Fund and General Fund.	
<b>Core Finance</b>			<b>CDFA</b>
8	Accounting policies and procedures	To determine accounting policies and procedures in accordance with legislative provisions and professional codes of practice.	
9	Writing off losses	To write off losses and deficiencies of stocks and stores or irrecoverable amounts in accordance with Financial Regulations.	

10	Investment	To invest and reinvest monies forming part of all funds under the control of the Council.
11	Loans	To borrow from the Public Works Loans Board or such other sources as may be deemed advisable such sums as may be required.
12	Premature repayment of loans	To approve the premature repayment of loans made to the Council.
13	Determination of Rate of Interest <i>Public Health Acts or the Housing Acts</i>	To determine what reasonable rate of interest should be charged on any outstanding cost in relation to work carried out by the Council in default and on any expense in accordance with legislative provisions and professional codes of practice.
14	Banking arrangements	To make and manage such banking arrangements as may be deemed necessary.
15	Banking arrangements - collection and payment	To make arrangements for the collection and payment into the Authority's bank accounts of all monies due to the Council.
16	Leasing of Assets	To negotiate and agree leasing arrangements in relation to asset acquisitions.
17	Superannuation and retirement due to ill health or disability	In accordance with such Council policies as may from time to time be determined, to implement in favour of any employee or his/her dependants, the legislation, rules and regulations relating to Superannuation, retirement due to ill health or disability and any payments or gratuities arising and to exercise any options open to the Council hereunder.
18	Insurance	To manage the Council's insurances.
19	Children in Care - Acceptance of money or other gifts from third parties	Jointly with the Chief Legal Officer, to accept money or other gifts from third parties for and on behalf of children or young persons in care and to hold or convert such money or gifts on their behalf and to their benefit.
20	Purchase Agency Agreements	To enter into such 'Purchase Agency Agreements' as are considered consistent with current Council Policy.

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|----|---|--|
| 22 | Signing and endorsement of cheques etc. | To sign and endorse cheques, certificates and the like on behalf of the Council.                           |
| 23 | Debt Management                         | To write off irrecoverable amounts in accordance with the Corporate Debt Management Policy.                |
| 24 | Mortgage Interest Rates                 | To vary the Council's mortgage interest rates in accordance with variations in the Standard National Rate. |

## Grants

**CDFA**

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| 25 | W.G. Little Scholarship and Band Concert Fund <i>Local Government Finance Act 1988</i> | In accordance with the agreed mechanism, to approve the making of grants to individuals and organisations up to a maximum of £1000.<br>To establish, maintain and manage a Collection Fund and General Fund. |
| 26 | Powell Ground Trust  | In accordance with the agreed mechanism, to approve the making of grants to individuals.   |
| 27 | Charles Langley Brooke Charity   | In accordance with the agreed mechanism, to approve the making of grants to individuals.   |

## Money Laundering

**CDFA**

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|----|--|---|
| 28 | Money Laundering<br><i>Proceeds of Crime Act 2002</i><br><i>Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017</i><br><i>Terrorism Act 2000</i> | To be responsible for devising, implementing and maintaining the Council's policies and procedures in relation to money laundering. |
|----|--|---|

## HEAD OF REVENUES AND BENEFITS (HRB)

<b>No.</b>	<b>Subject/Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
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### Council Tax and National Non-Domestic Rates

**HRB**

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|----|--|---|
| 29 | Council Tax and National Non-Domestic Rates discounts and exemptions<br><i>Local Government Finance Acts 1988 and 1992</i> | To administer & review Council Tax and National Non-Domestic Rates discounts and exemptions in accordance with the Local Government Finance Acts 1988 and 1992. |
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|----|---|--|
| 30 | Billing and Collection  | To bill and collect the Council Tax, National Non-Domestic Rate and Miscellaneous debts, including instituting and carrying on enforcement proceedings.  |
| 31 | Mandatory and Discretionary Relief<br><i>Local Government Finance Act 1988</i>              | To determine applications from charitable and non-profit making organisations for mandatory and discretionary relief in respect of liability for National Non-Domestic Rates in consultation with the Corporate Director of Finance and Assets (s151 Officer).   |
| 32 | Village Shop Relief<br><i>Non-Domestic rating (Rural Settlements) (England) Order 1997</i>  | To determine applications for discretionary rate relief from businesses in rural settlements (“Village Shop Relief”) in consultation with the Corporate Director of Finance and Assets (s151 Officer).   |
| 33 | Hardship Relief<br><i>Local Government Finance Act 1988</i>                                 | To determine applications for discretionary relief from businesses sustaining hardship Rates in consultation with the Corporate Director of Finance and Assets (s151 Officer).   |
| 34 | Legal Proceedings<br><i>Section 223(1), Local Government Act 1972</i>                       | To (a) prosecute or defend on behalf of the Council or (b) appear on the Council's behalf in proceedings before a Magistrates Court, in relation to the Council Tax and the National Non-Domestic Rate Rates in consultation with the Corporate Director of Finance and Assets (s151 Officer).   |
| 35 | Tribunal guidance that all local Councils should adopt policies for discretionary discounts | In consultation with the Cabinet Member responsible for Finance, and the Corporate Director of Finance and Assets (s151 Officer) be authorised to: <ul style="list-style-type: none"> <li>• determine applications for Council Tax Discretionary Discounts.</li> <li>• determine applications for exemption from the Council Tax Empty Homes Premium.</li> </ul> |

## Recovery

HRB



- |    |                        |  |
|----|------------------------|--|
| 36 | Distraint and Recovery | To distraint (taking control of goods) for rent, council tax and national non-domestic rates owing to the Council and recover costs to which the Council are entitled. |
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## Benefits

**HRB**

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|----|---|---|
| 37 | Administration of Benefits Schemes<br>Housing Benefit Regulations 2006, The Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 | To administer the Council Tax and Housing Benefits Schemes in accordance with current legislation.  |
| 38 | Discretionary Housing Payments<br><i>Discretionary Financial Assistance Regulations 2001 and Local Welfare Assistance Payments</i>                            | To determine applications for discretionary housing payments and any similar discretionary payment scheme in consultation with the Corporate Director of Finance and Assets (s151 Officer). |
| 39 | Fraud Investigation<br><i>The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013</i>                               | In conjunction with Internal Audit, to undertake fraud investigations and implement sanctions.  |
| 40 | Contract for outsourced Benefits services   | To be the Council's 'Authorised Officer' as defined in the contract for outsourced Benefits and Revenues services.  |
| 41 | Partial Empty Rate Relief<br><i>Section 44A of the Local Government Finance Act 1988</i>  | To grant partial empty rate relief in respect of hereditaments which are partly occupied.   |

## HEAD OF PROPERTY ASSETS (HPA)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
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### Property Services

**HPA**

- |    |                                 |   |
|----|---------------------------------|---|
| 42 | Applications for Vendor Consent | To determine applications for vendor consent in respect of (a) non-residential properties and (b) community buildings in consultation with the Chief Executive and relevant Cabinet Member(s) and Ward Members. |
|----|---------------------------------|---|

- 43 Acquisition or Disposal of land
- In agreement with the Chief Legal Officer, the Corporate Director of Finance and Assets (s151 Officer) and the appropriate Officer(s) and Cabinet Member(s) in all matters (and following consultations at both the initial and detailed stages with the relevant ward councillors in respect of (a), (b) and (c) for transactions above £500,000 to:
- (a) agree terms for the disposal of land and property interests up to a value of £1m,
  - (b) investigate, evaluate, negotiate and agree terms for land and property acquisition up to a value of £1m,
  - (c) agree terms in respect of the Council's leasehold and freehold estate, and
  - (d) carry out commission valuations.

### **Assets of Community Value**

**HPA**

- 44 Applications for Assets of Community Value  
*Localism Act 2011*
- To maintain the List of Assets of Community Value and take all necessary steps to promote and implement the proposed arrangements.

### **Conversion of Schools to Academies**

**HPA**

- 45 Conversion to academy  
*Academies Act 2010, ss 4 and 5B,*  
and any subsequent amendments
- To enter into all necessary contract documentation to enable the conversion of an existing school to, or the opening of a new school with, Academy or Free School status and to complete contract documentation will be on such terms and conditions that are agreed by the Chief Legal Officer in order to protect the Council's interests.

### **Transfers of Land**

**HPA**

- 46 Transfers of land
- To agree terms for the grant of leases of community assets (both land and buildings) to parish councils.
- 47 Transfers of land
- To agree terms for the sale of amenity land adjacent to a residential landowner's property where there are no objections from the ward members.
- 48 Transfers of land
- To agree terms for the renewal of leases of community land and buildings to groups at nominal rents (where such an arrangement has previously been authorised or currently exists).

- 49 Transfers of land
- To agree terms for the grant of leases of land and property to organisations where the Council is contracting with that same organisation to deliver a service for lease length periods coterminous with that service contract.

## Mapping Services

HPA

- 50 Mapping Services  
*Mapping Services Agreement (MSA)*
- In conjunction with the Chief Legal Officer, to discharge the Council's duties under the MSA.

# CHIEF OPERATING OFFICER (COO)

## Information Governance Officer (IGO)

No.	Subject/ Enabling Statute	Authority	Officer
		<b>Data Protection</b>	<b>IGO</b>
85	Data Protection and Freedom of Information <i>Data Protection Act 2018</i> <i>General Data Protection Regulation (EU) 2016</i> <i>Freedom of Information Act 2000</i>	To be responsible for devising, implementing and maintaining the Council's policies and procedures in relation to Data protection and Freedom of Information.	

# DIRECTOR OF PEOPLE, CUSTOMER AND ORGANISATIONAL RESILIENCE (DPOCR)

No.	Subject/ Enabling Statute	Authority	Officer
<b>Recruitment and Selection</b>			<b>DPCOR</b>
51	Employment Practices	To implement any other matters relating to such employment practices as may have been approved by the Council.	
52	Grading of Posts	To determine the grading of posts.	
53	Lodging Allowances	To approve requests for extensions to the Council's Lodging Allowance Scheme.	
54	Disclosure and Barring Service	To undertake the role of lead Counter signatory on behalf of the Council.	
<b>Employee Relations</b>			<b>DPCOR</b>
55	Trades Unions	To negotiate on behalf of the Council with any Trades Union recognised by the Council in respect of i) industrial action being taken or threatened by employees and ii) the terms and conditions of employment of Council employees.	
<b>Employer Discretion Policy</b>			<b>DPCOR</b>
56	Local Government Pension Scheme <i>Local Government Pension Scheme Regulations 2013</i>	To determine the exercise of the Council's discretion in relation to the Employer Discretion policy, in consultation with the Corporate Director of Finance and Assets (s151 Officer) and the relevant Cabinet Member and other Corporate Director.	
<b>National and Provincial Negotiations</b>			<b>DPCOR</b>
57	National and Provincial negotiations	To implement the decisions of national and provincial negotiating bodies.	
<b>Peacetime Emergencies</b>			<b>DPCOR</b>
412	Peacetime emergencies	To exercise the powers of the Council in relation to planning for peacetime emergencies.	

## CHIEF LEGAL OFFICER (CLO)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
<b>General</b>			<b>CLO</b>
58	Legal Proceedings - Magistrates' Court, Crown Court and the Higher Courts	To prosecute, institute or defend any legal proceedings on behalf of the Council, and to appear on their behalf, and to conduct proceedings in the Magistrates' Court and the Crown Court and the Higher Courts and in any other forum.	
59	Legal Proceedings - County Court, High Court and any other Tribunal	To institute and carry on, or defend civil proceedings in the County Court or High Court or any other Tribunal (including proceedings for an Injunction) on behalf of and in the name of the Council and to take such enforcement action in the Court proceedings as may be considered appropriate.	
60	Legal Proceedings - Parking Offences <i>Section 112 of the Road Traffic Regulation Act 1984,</i> <i>Section 35(4) of the Road Traffic Regulation Act 1984</i> <i>Section 112(4) of the Road Traffic Regulation Act 1984</i>	(i) To require information from any person as to the identity and address of the driver of the vehicle who is alleged to have committed an offence under Section 35(4) of the Road Traffic Regulation Act 1984, (Failure to comply with or contravention of Off-Street Parking Places Order); and (ii) To institute legal proceedings against any person who fails to give information requested under paragraph (i) above.	
61	Legal Proceedings - Conclusion and Settlement	To conclude or settle any legal proceedings to which the Council is a party or in order to avoid legal action.	
62	Solicitor to the Council	To act as Solicitor to the Council and to instruct other Solicitors or Barristers to represent the Council.	
63	Removal of Vehicles/Property <i>Section 78 of the Criminal Justice and Public Order Act 1994</i>	At the request of the relevant Director, where appropriate to apply to the Magistrates Court for an order providing for the removal of any vehicle or other property present on land within the Borough Council's area, and any person residing in a vehicle.	

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|-----|---|--|
| 63a | Unauthorised Encampments<br><i>Part 5 of the Criminal Justice and Public Order Act 1994</i> | At the request of the relevant Director, where appropriate to take formal action to remove unauthorised campers within the Borough, and to give a Direction under Part 5 of the Criminal Justice and Public Order Act 1994, and if necessary, to request the Police to invoke their powers under the Criminal Justice and Public Order Act 1994.     |
| 63b | Whistleblowing<br><i>Public Interest Disclosures Act 1998, Employment Rights Act 1996</i>   | To maintain and administer a corporate Whistleblowing policy and procedure, and to receive and address any complaints or grievances falling within the scope of that policy  |
| 63c | Standards and Member Conduct<br><i>Local Government Act 2000, Localism Act 2011</i>         | To maintain and administer a procedure for dealing with complaints regarding the conduct of Borough and Parish Councillors, including consideration and determination of complaints, investigating or arranging the investigation of complaints, making recommendations to Committees and full Council, and consultation with an Independent Person. |

## Court Proceedings

**CLO**

- |    |  |   |
|----|--|---|
| 64 | Legal Proceedings – Advertisements<br><i>Town and Country Planning Act (1990) – Section 224</i>  | At the request of the Director of Operations, where appropriate to prosecute pursuant to Section 224 of the Town and Country Planning Act (1990) any person who displays an advertisement in contravention of the regulations under section 220 of the Town and Country Planning Act 1990.  |
| 65 | Legal Proceedings – Housing and Council Tax Benefits Fraud<br><i>Sections 111, 112 and 116 of the Social Security Administration Act 1992 and the Fraud Act 2006</i> | To prosecute and delegate the authority for the prosecution of cases of Housing and Council Tax Benefits Fraud:<br>S111 - Dishonestly making false claims or statements or withholding information about relevant changes<br>S112 - Knowingly making false claims or statements or withholding information about relevant changes (Section 112)<br>S116 - to give authority to prosecute or delegate authority under section 111 or 112 for cases where the offence may have been committed in excess of 12 months previous, but the offence has only recently been discovered.<br>The Fraud Act 2006 – fraud by false representation and fraud by failing to disclose information. |

## Health and Public Protection

**CLO**

- 66 Certificates in respect of Summary Proceedings  
*Section 34(3) of the Health and Safety at Work etc. Act 1974*
- To issue certificates in respect of summary proceedings for an offence under Section 34(3) of the Health and Safety at Work etc. Act 1974.

## Planning and Development Control

CLO

- 67 Planning Agreements  
*Section 106 of the Town and Country Planning Act 1990, and Sections 38 and 278 of the Highways Act 1980*
- On the request of the Director of Strategic Development and Growth, to enter into Planning Agreements under Section 106 of the Town and Country Planning Act 1990, and Sections 38 and 278 of the Highways Act 1980.
- 68 Planning Notices  
*Sections 171C, 172, 183, 187A, 187B and 215 of the Town and Country Planning Act 1990 (as amended) and Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)*
- On the request of the Director of Strategic Development and Growth or the Director of Housing where appropriate to: (a) issue or withdraw notices and; (b) serve notices requisitioning information needed prior to the issuing of notices under (a) above; except that this Authorisation does not extend to breaches of planning control which would have constituted major development had the development been the subject of a planning application or breaches of planning control which are in accordance with the approved or draft development plan.
- 69 Community Infrastructure Levy Regulations, 2010 (as amended)
- On the request of the Director of Strategic Development and Growth, to provide advice on the interpretation and application of the CIL Regulations and the issue of the CIL Notices and undertake CIL Enforcement Action.

## Housing

CLO

- 70 Notices and Possession Action  
*The relevant Housing Acts and the Law of Property Act 1925*
- To sign notices and take possession action under the Housing Acts, to sign notices to determine licences and notices to quit premises held under non-secure tenancies. *(The authorisation to sign notices under Section 83 of the Housing Act 1985 is exercised concurrently with the Director of Housing).*

## Property

CLO

- 71 Acquisition or disposal of land
- To conclude agreements for the acquisition or disposal of land (including leasehold interest) as authorised by the Council or as requested by the Head of Property Assets in the exercise of his delegated powers.



- |    |                                  |  |
|----|----------------------------------|--|
| 72 | Notices - Agricultural Tenancies | To sign notices in relation to agricultural tenancies. |
| 73 | Notices - Business Tenancies     | To sign notices relating to business tenancies.        |

### **Appointments**

**CLO**

- |    |                              |  |
|----|------------------------------|--|
| 74 | Education Appeals Panels     | To appoint suitably qualified persons to serve on Education Appeals Panels.  |
| 75 | Wiltshire Valuation Tribunal | To exercise the Council's powers to fill tribunal vacancies, such appointments and lists of persons nominated to be reported to the Cabinet. |

### **Town Twinning**

**CLO**

- |    |                      |  |
|----|----------------------|--|
| 76 | Town Twinning Grants | Within the resources available, and following consultation with the appropriate Cabinet Member, the Chief Executive and the Town Twinning Network, to approve grants to support twinning activities. |
|----|----------------------|--|

### **Indemnities**

**CLO**

- |    |   |   |
|----|---|---|
| 77 | Indemnities<br><i>Local Authorities (Indemnities for Members and Officers) Order 2004</i> | To approve the granting of an indemnity in accordance with the Council's Indemnity Policy.<br>To arrange additional insurance cover for legal costs for Members in relation to Code of Conduct claims and to extend the insurance cover for Libel and Slander claims made against them by capping the 10% Members Contribution at £1,000. |
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### **Clean Neighbourhoods**

**CLO**

- |    |  |  |
|----|--|--|
| 80 | Cleaning up of land in private ownership<br><i>Clean neighbourhoods and Environment Act 2005</i><br><i>Section 215 of the Town and Country Planning Act (1990)</i> | At the request of the Director of Strategic Development and Growth and Growth or the Director of Housing, to issue notices requiring the clean-up of land in private ownership, where the amenity of the neighbourhood is adversely affected, and to take legal action if such notices are not complied with, including recovery of costs. |
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### **Anti-Social Behaviour**

**CLO**

- |    |   |   |
|----|---|---|
| 82 | Public Space Protection Orders<br><i>Chapter 2 Anti-Social Behaviour, Crime and Policing Act 2014</i> | To make Public Space Protection Orders following consultation with the appropriate Cabinet Member and relevant Officer. |
|----|---|---|

### **General (Legal)**

**CLO**

83	Entering Premises	On the advice of the relevant Officer, to apply to a court for a warrant in order to enter premises or commence proceedings for obstruction where lawful entry has been refused.
84	Information as to Ownership and Occupation <i>Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, Section 330 of the Town and Country Planning Act 1990, and Section 93 of the Control of Pollution Act 1974</i>	To sign requisitions for information as to ownership and occupation on all persons having an interest in premises.
86	Petitions	To co-ordinate the receipt and consideration of petitions and to refer the matter to the appropriate Corporate Director, Director or Head of Service, Cabinet Member or Council body.
87	Children in care - Acceptance of money or other gifts from third parties	Jointly with the Corporate Director of Finance and Assets (s151 Officer), to accept money or other gifts from third parties for and on behalf of children or young persons in care and to hold or convert such money or gifts on their behalf and to their benefit.
88	Investigatory Powers <i>Regulation of Investigatory Powers Act 2000</i>	To maintain and keep under review a central register of authorisations issued under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.
89	Joint arrangements with Wiltshire Council	To renew the joint agreement with Wiltshire Council for the provision of support services to the Lord Lieutenant and High Sheriff of Wiltshire.

## **Amendments to the Constitution**

**CLO**

90	Adding to or varying the constitution (Minute at Annual Council)	In consultation with the Leader of the Council, the leaders of the other political party groups and the Chief Executive to add to or vary the wording and layout of the Constitution and its associated documentation to reflect legislative and procedural changes, should this prove necessary for the efficient discharge of Council business.
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## **Dispensations**

**CLO**

91	Dispensations – Standards Committee Minute 15(2)(iii), 7th November 2016, Localism Act 2011, s.33.	In consultation with the Chair of the Standards Committee, to grant applications for urgent dispensations on any subject matter in between meetings of the Standards Committee.
78	To issue dispensations to Members regarding Council Tax (Section 33, Localism Act 2011)	For the Chief Legal Officer (Monitoring Officer) to grant any applications for a dispensation on the subject matter of Council Tax for a four year period.
79	To issue urgent dispensations to Members (Section 33, Localism Act 2011)	For the Chief Legal Officer (Monitoring Officer) to grant applications for urgent dispensations on any subject matter in between meetings of the Standards Committee.

## **SERVICE MANAGER: REGISTRARS AND BEREAVEMENT SERVICES (SMRB)**

<i>No.</i>	<i>Subject/ Enabling Statute</i>	<i>Authority</i>	<i>Officer</i>
<b>Burials</b>			<b>SMRB</b>
92	Burial Grants	To issue burial grants for such periods up to 100 years as the officer shall determine.	
93	Right of Burial <i>Local Government Act 1972 and the Cemeteries Order</i>	To sign grants of right of burial.	
424	Medical Referee to the Crematorium	To appoint a registered medical practitioner as Medical Referee to the Crematorium, and other registered medical practitioners as Deputy Medical referees to the Crematorium.	
<b>Marriages and Registration Service</b>			<b>SMRB</b>
94	Fees <i>Marriage Act 1994</i>	On an annual basis, to increase fees charged by the Council under the provisions of the Marriage Act 1994 to ensure that the Council's costs are met.	

## **Citizenship and Civil Partnership** **SMRB**

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|----|--|---|
| 95 | Non-standard Citizenship and other non-statutory Ceremonies, events and activities | To set future fees for non-standard Citizenship and other non-statutory Ceremonies, events and activities (including Weddings at the Civic Offices) in consultation with the Leader of the Council.   |
| 96 | Civil Partnerships<br><i>Civil Partnership Act 2004</i>                            | To have overall responsibility for civil partnership issues within the Council, including authorising people to attest notices of proposed Civil Partnership and designating Civil Partnership Registrars. To set fees associated with Civil Partnership and associated ceremonies. |

## HEAD OF INTERNAL AUDIT (HIA))

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
<b>Fraud Investigation</b>			<b>HIA</b>
97	Fraud Investigation <i>Social Security Administration Act 1992 &amp; The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013</i>	In conjunction with the Head of Revenues and Benefits, to undertake fraud investigations and implement sanctions.	
98	Fraud Investigation – social housing <i>Prevention of Social Housing Fraud Act 2013</i>	In conjunction with the Head of Revenues and Benefits, to undertake investigations under the Fraud Act 2006 and the Prevention of Social Housing Fraud Act 2013.	

## DIRECTOR OF OPERATIONS (DOO)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
<b>Cleaner Neighbourhoods</b>			<b>DOO</b>
99	Nuisance Parking Offences <i>Part 2 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council in relation to the enforcement of Nuisance Parking Offences under Part 2 of the Clean Neighbourhoods and Environment Act 2005 including the use of fixed penalties when appropriate.	
100	Illegally parked vehicles <i>Part 2 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council in relation to the enforcement of Illegally parked Vehicles under Part 2 of the Clean Neighbourhoods and Environment Act 2005 including the use of fixed penalties when appropriate.	
101	Litter and Refuse <i>Part 3 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council in relation to the enforcement of litter and refuse under Part 2 of the Clean Neighbourhoods and Environment Act 2005 including the use of fixed penalties when appropriate.	

102	Graffiti and other defacement Part 4 of the Clean Neighbourhoods and Environment Act 2005	To exercise the powers of the Council in relation to the enforcement of Graffiti and other defacement under Part 3 of the Clean Neighbourhoods and Environment Act 2005 including the use of fixed penalties when appropriate.
103	Sale of aerosol paint to children Anti-Social Behaviour Act 2003 section 54. Part 4 of the Clean Neighbourhoods and Environment Act 2005	To exercise the powers of the Council in relation to the enforcement of the provisions to prevent the sale of aerosol paint to children contained in the Anti-Social Behaviour Act 2003 section 54 as amended by Part 4 of the Clean Neighbourhoods and Environment Act 2005.
104	Abandoned Vehicles Part 2 of the Clean Neighbourhoods and Environment Act 2005	To exercise the powers of the Council in relation to the enforcement of Abandoned Vehicles under Part 2 of the Clean Neighbourhoods and Environment Act 2005.
105	Transport of Waste <i>Control of Pollution (Amendment) Act 1989 as amended by Part 5 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council to stop, search and seize vehicles believed to be carrying controlled waste or to have been used in the commission of an offence under these provisions and to take enforcement action including the use of fixed penalties when appropriate.
325	Collection of Waste - Notices <i>Sections 46 and 47 of the Environmental Protection Act 1990</i>	To serve notices requiring an occupier to place waste for collection/storage in a receptacle of a kind and number specified. ( <i>exercised concurrently with the Director of Public Health</i> )
106	Offences relating to waste receptacles <i>Environmental Protection Act 1990 as amended by Part 5 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council in relation to offences concerning waste receptacles and to take enforcement action including the use of fixed penalties when appropriate.
107	Removal of waste on land. <i>Environmental Protection Act 1990 as amended by Part 5 of the Clean Neighbourhoods and Environment Act 2005</i>	To exercise the powers of the Council requiring the owner of land to remove waste unlawfully deposited and to take enforcement action including the use of fixed penalties when appropriate.

## Waste Management

DOO

<p>108 Penalty notices for graffiti and fly-posting <i>Section 43 of the Anti-Social Behaviour Act 2003</i></p>	<p>To issue fixed penalty notices against any person that an Authorised Officer of the Authority has reason to believe has committed a relevant offence in the area of the Authority.</p>
<p>110 Removal of waste on land. <i>Environmental Protection Act 1990 as amended by Part 5 of the Clean Neighbourhoods and Environment Act 2005</i></p>	<p>To exercise the powers of the Council requiring the owner of land to remove waste unlawfully deposited and to take enforcement action including the use of fixed penalties when appropriate.</p>
<p>111 Penalty notices for graffiti and fly-posting <i>Section 43 of the Anti-Social Behaviour Act 2003</i></p>	<p>To issue fixed penalty notices against any person that an Authorised Officer of the Authority has reason to believe has committed a relevant offence in the area of the Authority.</p>
<p>113 Duty to produce authority to transport controlled waste <i>Section 5 of the Control of Pollution (Amendment) Act 1989</i></p>	<p>To stop and search any vehicle that appears to an Authorised Officer to be transporting waste in contravention of S.1 of the Act.</p>
<p>114 Rights of entry and inspection etc. <i>Section 91 of the Control of Pollution Act 1974</i></p>	<p>To allow Authorised Persons to enter upon any land or vessel in carry out their duties under the Provisions of the Act.</p>
<p>115 Seizure and disposal of vehicles used for illegal waste disposal <i>Section 6 of the Control of Pollution (Amendment) Act 1989</i></p>	<p>Upon the issue of a warrant, to seize a vehicle used for illegal waste disposal. The Authority may dispose of the vehicle in accordance with the Provisions of the Act.</p>
<p>116 Further enforcement provision <i>Section 7 of the Control of Pollution (Amendment) Act 1989</i></p>	<p>To exercise provisions as prescribed in S. 91 to 94 of the Control of Pollution Act 1974.</p>
<p>117 Powers of authorities to obtain information <i>Section 93 of the Control of Pollution Act 1974</i></p>	<p>To serve a notice on any person requiring him to furnish information, required by the Authority to carry out any functions conferred by the Act, to the Authority within a period or at a time specified in the notice and in a form so specified. To request the Chief Legal Officer to prosecute or caution any person failing to recognise the notice.</p>
<p>118 Powers of enforcing authorities and persons authorised by them <i>Section 108 of the Environment Act 1995</i></p>	<p>To carry out all Provisions as prescribed in S.108 of the Act in relation to the "enforcing authority" including powers of entry.</p>

<p>119 Prohibition on unauthorised or harmful Deposit, treatment or disposal etc. of waste <i>Section 33 of the Environmental Protection Act 1990</i></p>	<p>To request the Chief Legal Officer to take prosecutions and issue cautions against persons committing an offence in relation to this section.</p>
<p>120 Duty of care etc. as respects waste <i>Section 34 of the Environmental Protection Act 1990</i></p>	<p>To serve notice requiring the production of information that is required to be kept in accordance with this section. To request the Chief Legal Officer to prosecute or caution any person failing to recognise the notice and prosecute or caution any person who has committed an offence under this section of the Act.</p>
<p>121 Receptacles for household waste <i>Section 46 of the Environmental Protection Act 1990</i></p>	<p>To serve notice requiring the placement of household waste in a manner prescribed by the Authority. To request the Chief Legal Officer to take prosecutions or issue cautions against persons failing to comply with the notice.</p>
<p>122 Receptacles for commercial industrial waste <i>Section 47 of the Environmental Protection Act 1990</i></p>	<p>To serve notice requiring the placement of commercial or industrial waste in a manner prescribed by the Authority in the event that existing or proposed arrangements may be detrimental to the amenities of the locality. To request the Chief Legal Officer to take prosecutions or issue cautions against persons failing to comply with the notice.</p>
<p>123 Powers to require removal of waste unlawfully Deposited Section 59 of the Environmental Protection Act 1990</p>	<p>To serve notice on the occupiers of land to ensure removal of any waste deposited in contravention of Section 33 and to take steps with a view to eliminating or reducing the consequences of the deposit of the waste. To request the Chief Legal Officer to take prosecutions or issue cautions against any persons failing to comply with the notice.</p>
<p>124 Interference with waste sites and receptacles for waste <i>Section 60 of the Environmental Protection Act 1990</i></p>	<p>To request the Chief Legal Officer to take prosecutions and issue cautions against any person interfering with waste receptacles provided by the Authority.</p>
<p>125 Offence of leaving litter <i>Section 87 of the Environmental Protection Act 1990</i></p>	<p>To request the Chief Legal Officer to take prosecutions and issue cautions against any person dropping litter in a manner prescribed by the Act.</p>



<p>126 Fixed penalty notices for leaving litter <i>Section 88 of the Environmental Protection Act 1990</i></p>	<p>To issue Fixed Penalty Notices against any person committing an offence under Section 87, in conjunction with the Director of Strategic Development and Growth.</p>
<p>127 Litter control areas <i>Section 90 of the Environmental Protection Act 1990</i></p>	<p>To designate areas as Litter Control Areas.</p>
<p>128 Summary proceedings by authorities <i>Section 92 of the Environmental Protection Act 1990</i></p>	<p>In consultation with the Chief Legal Officer to serve litter abatement notices imposing requirements or prohibitions on relevant land.</p>
<p>129 Street litter control notices <i>Section 93 of the Environmental Protection Act 1990</i></p>	<p>To serve street litter control notices imposing requirements in relation to litter or refuse on occupiers of premises to ensure they control any litter or refuse generated from their property, in accordance with this section and Section 94.</p>
<p>130 Powers in relation to abandoned shopping and luggage trolleys <i>Section 99 of the Environmental Protection Act 1990</i></p>	<p>To make resolutions under this Section to resolve that Schedule 4 of the Act shall apply in its area.</p>
<p>131 Penalty for unauthorised dumping <i>Section 2 of the Refuse Disposal (Amenity) Act 1978</i></p>	<p>To request the Chief Legal Officer to take prosecutions against persons found abandoning waste, including motor vehicles.</p>
<p>132 Powers of entry etc. <i>Section 8 of the Refuse Disposal (Amenity) Act 1978</i></p>	<p>To allow Authorised Persons to enter upon any land for the purpose of ascertaining whether any of the functions conferred by S.3 or S.6 of the Act should be exercised.</p>

## Enforcement Policy

DOO

- 133 Fixed Penalty Notices  
*Clean Neighbourhoods and Environment Act 2005*
- To set levels of fixed penalty charges for offences. The level of the fixed penalty charge shall be set having regard to: -
- Any Government guidance on the level at which the fixed penalty charge should be set;
  - The likely level of fine that a court would impose for a similar offence;
  - The need to deter offenders from opting for prosecution because they believe that the court would impose a lower level of penalty; and
  - The cost of bringing a prosecution where fixed penalties were not paid.

## Refuse Collection

DOO

- 134 Waste on vacant sites  
*Section 34, Public Health Act 1961*
- To arrange the removal of accumulations of refuse from vacant sites which are seriously detrimental to the amenities of the neighbourhood.
- 135 Collection of Waste - Notices  
*Sections 46 and 47 of the Environmental Protection Act 1990*
- To serve notices requiring an occupier to place waste for collection/storage in a receptacle of a kind and number specified (*exercised concurrently with the Director of Strategic Development and Growth*).
- 136 Abandoned Vehicles  
*Section 3(2) and 3(5) of the Refuse Disposal (Amenity) Act 1978 and Section 99(3) and 99(4) of the Road Traffic Regulation Act 1984*
- To sign and serve notices, or to sign and affix a notice to an abandoned vehicle (as appropriate).

## Housing Maintenance

DOO

- 137 Housing Maintenance
- To deal with Housing repairs and maintenance matters arising from the day-to-day management of the Council's housing stock.

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
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## Cleaner Neighbourhoods

DOO

- 138 Waste on vacant sites  
*Section 34, Public Health Act 1961*
- To arrange the removal of accumulations of refuse from vacant sites which are seriously detrimental to the amenities of the neighbourhood. (*exercised concurrently with the Director of Public Health*)

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| 139 | Collection of Waste - Notices<br><i>Sections 46 and 47 of the Environmental Protection Act 1990</i>  | To serve notices requiring an occupier to place waste for collection/storage in a receptacle of a kind and number specified. <i>(exercised concurrently with the Director of Public Health and Director of Strategic Development and Growth)</i> |
| 140 | Abandoned Vehicles<br><i>Section 3(2) and 3(5) of the Refuse Disposal (Amenity) Act 1978 and Section 99(3) and 99(4) of the Road Traffic Regulation Act 1984</i> | To sign and serve notices, or to sign and affix a notice to an abandoned vehicle (as appropriate). <i>(exercised concurrently with the Director of Public Health)</i>  |

## Waste Management

**DOO**

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| 141 | Penalty notices for graffiti and fly-posting<br><i>Section 43 of the Anti-Social Behaviour Act 2003</i>                               | To issue fixed penalty notices against any person that an Authorised Officer of the Authority has reason to believe has committed a relevant offence in the area of the Authority. <i>(exercised concurrently with the Director of Public Health)</i>  |
| 143 | Duty to produce authority transport controlled waste<br><i>Section 5 of the Control of Pollution (Amendment) Act 1989</i>             | To stop and search any vehicle that appears to an Authorised Officer to be transporting waste in contravention of S.1 of the Act. <i>(exercised concurrently with the Director of Public Health)</i>   |
| 144 | Seizure and disposal of vehicles used for illegal waste disposal<br><i>Section 6 of the Control of Pollution (Amendment) Act 1989</i> | Upon the issue of a warrant, to seize a vehicle used for illegal waste disposal. The Authority may dispose of the vehicle in accordance with the Provisions of the Act. <i>(exercised concurrently with the Director of Public Health)</i>   |
| 145 | Further enforcement provision<br><i>Section 7 of the Control of Pollution (Amendment) Act 1989</i>                                    | To exercise provisions as prescribed in S. 91 to 94 of the Control of Pollution Act 1974. <i>(exercised concurrently with the Director of Public Health)</i>   |
| 146 | Rights of entry and inspection etc.<br><i>Section 91 of the Control of Pollution Act 1974</i>   | To allow Authorised Persons to enter upon any land or vessel in carry out their duties under the Provisions of the Act. <i>(exercised concurrently with the Director of Public Health)</i>   |
| 147 | Powers of authorities to obtain information<br><i>Section 93 of the Control of Pollution Act 1974</i>                                 | To serve a notice on any person requiring him to furnish information, required by the Authority to carry out any functions conferred by the Act, to the Authority within a period or at a time specified in the notice and in a form so specified. To request the Chief Legal Officer to prosecute or caution any person failing to recognise the notice. <i>(exercised concurrently with the Director of Public Health)</i> |

148 Powers of enforcing authorities and persons authorised by them <i>Section 108 of the Environment Act 1995</i>	To carry out all Provisions as prescribed in S.108 of the Act in relation to the "enforcing authority" including powers of entry. <i>(exercised concurrently with the Director of Public Health)</i>
149 Prohibition on unauthorised or harmful Deposit, treatment or disposal etc. of waste <i>Section 33 of the Environmental Protection Act 1990</i>	To request the Chief Legal Officer to take prosecutions and issue cautions against persons committing an offence in relation to this section. <i>(exercised concurrently with the Director of Public Health)</i>
150 Duty of care etc. as respects waste <i>Section 34 of the Environmental Protection Act 1990</i>	To serve notice requiring the production of information required to be kept in accordance with this section. To request the Chief Legal Officer to prosecute or caution any person failing to recognise the notice and prosecute or caution any person who has committed an offence under this section of the Act. <i>(exercised concurrently with the Director of Public Health)</i>
151 Receptacles for household waste <i>Section 46 of the Environmental Protection Act 1990</i>	To serve notice requiring the placement of household waste in a manner prescribed by the Authority. To request the Chief Legal Officer to take prosecutions or issue cautions against persons failing to comply with the notice. <i>(exercised concurrently with the Director of Public Health)</i>
152 Receptacles for commercial industrial waste <i>Section 47 of the Environmental Protection Act 1990</i>	To serve notice requiring the placement of commercial or industrial waste in a manner prescribed by the Authority in the event that existing or proposed arrangements may be detrimental to the amenities of the locality. To request the Chief Legal Officer to take prosecutions or issue cautions against persons failing to comply with the notice. <i>(exercised concurrently with the Director of Public Health)</i>
153 Powers to require removal of waste unlawfully Deposited <i>Section 59 of the Environmental Protection Act 1990</i>	To serve notice on the occupiers of land to ensure removal of any waste deposited in contravention of Section 33 and to take steps with a view to eliminating or reducing the consequences of the deposit of the waste. To request the Chief Legal Officer to take prosecutions or issue cautions against any persons failing to comply with the notice. <i>(exercised concurrently with the Director of Public Health)</i>
154 Interference with waste sites and	To request the Chief Legal Officer to take

	receptacles for waste <i>Section 60 of the Environmental Protection Act 1990</i>	prosecutions and issue cautions against any person interfering with waste receptacles provided by the Authority. <i>(exercised concurrently with the Director of Public Health)</i>
155	Offence of leaving litter <i>Section 87 of the Environmental Protection Act 1990</i>	To request the Chief Legal Officer to take prosecutions and issue cautions against any person dropping litter in a manner prescribed by the Act. <i>(exercised concurrently with the Director of Public Health)</i>
156	Fixed penalty notices for leaving litter <i>Section 88 of the Environmental Protection Act 1990</i>	To issue Fixed Penalty Notices against any person committing an offence under Section 87. <i>(exercised concurrently with the Director of Public Health)</i>
157	Litter control areas <i>Section 90 of the Environmental Protection Act 1990</i>	To designate areas as Litter Control Areas. <i>(exercised concurrently with the Director of Public Health)</i>
158	Summary proceedings by authorities <i>Section 92 of the Environmental Protection Act 1990</i>	To serve litter abatement notices imposing requirements or prohibitions on relevant land. <i>(exercised concurrently with the Director of Public Health)</i>
159	Street litter control notices <i>Section 93 of the Environmental Protection Act 1990</i>	To serve street litter control notices imposing requirements in relation to litter or refuse on occupiers of premises to ensure they control any litter or refuse generated from their property, in accordance with this section and Section 94. <i>(exercised concurrently with the Director of Public Health)</i>
160	Powers in relation to abandoned shopping and luggage trolleys <i>Section 99 of the Environmental Protection Act 1990</i>	To make resolutions under this Section to resolve that Schedule 4 of the Act shall apply in its area. <i>(exercised concurrently with the Director of Public Health)</i>
161	Penalty for unauthorised dumping <i>Section 2 of the Refuse Disposal (Amenity) Act 1978</i>	To request the Chief Legal Officer to take prosecutions against persons found abandoning waste, including motor vehicles. <i>(exercised concurrently with the Director of Public Health)</i>
162	Removal of abandoned vehicles <i>Section 3 of the Refuse Disposal (Amenity) Act 1978</i>	To remove any vehicles that it appears to the authority to have been abandoned.

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| 163 | Disposal of abandoned vehicles<br><i>Section 4 of the Refuse Disposal (Amenity) Act 1978</i>                       | To dispose of any vehicles which are in their custody in pursuance of S.3 in accordance with the conditions as set out by the Act.   |
| 164 | Recovery of expenses connected with removed vehicles<br><i>Section 5 of the Refuse Disposal (Amenity) Act 1978</i> | To recover charges for costs incurred in carrying out S.3(1) of the Act. These charges are as set by the Secretary of State.   |
| 165 | Removal and disposal of other refuse<br><i>Section 6 of the Refuse Disposal (Amenity) Act 1978</i>                 | To remove any waste which appears to the Authority to have been abandoned on any land in the open air or on any other land forming part of a highway.  |
| 166 | Powers of entry etc.<br><i>Section 8 of the Refuse Disposal (Amenity) Act 1978</i>                                 | To allow Authorised Persons to enter upon any land for the purpose of ascertaining whether any of the functions conferred by S.3 or S.6 of the Act should be exercised. ( <i>exercised concurrently with the Director of Public Health</i> ) |

### **Town Centre Management**

**DOO**

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| 167 | Promotions and Entertainments<br><i>Highways Act 1980</i> | To authorise promotions and entertainments in the Town Centre pedestrianised area. |
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### **Parks and Amenities**

**DOO**

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| 168 | Dangerous Trees<br><i>Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976</i> | To exercise the Council's power to deal with dangerous trees. |
| 169 | Leisure Gardens and Allotments   | To sign Tenancy Agreements and give Notices to Quit.          |

### **Highways Management**

**DOO**

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| 431 | Removal of – Snow, collapsed banks and/or obstructions<br><i>Highways Act 1980 s.150</i> | To arrange for the removal of accumulations of snow or collapsed banks on the side of the highway or anything else causing an obstruction to the highway (Also exercised by the Director for Strategic Development and Growth). |
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# DIRECTOR OF STRATEGIC DEVELOPMENT AND GROWTH AND GROWTH (DSDG)

<i>No.</i>	<i>Subject/ Enabling Statute</i>	<i>Authority</i>	<i>Officer</i>
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## HEAD OF STRATEGIC TRANSPORT (HST)

<i>No.</i>	<i>Subject/ Enabling Statute</i>	<i>Authority</i>	<i>Officer</i>
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### Cleaner Neighbourhoods

HST

170	Street Cafes <i>Highways Act 1980</i> <i>Business and Planning Act 2020</i>	To authorise the siting of tables and chairs for outside refreshments in the Town Centre pedestrianised area and to recover from each applicant the Council's reasonable costs based on the size of the area the subject of the permission.	
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### Traffic Management

HST

171	Traffic Management <i>Traffic Management Act 2004</i>	In consultation with the relevant Cabinet Member, to exercise any powers, rights and duties under parts of the Traffic Management Act 2004 that fall to be exercised by the Council, as follows: <ul style="list-style-type: none"> <li>○ Part 2 (Network Management)</li> <li>○ Part 3 (Permit Schemes)</li> <li>○ Part 4 (Street Works)</li> <li>○ Part 5 (Highways and Roads)</li> <li>○ Part 6 (Civil Enforcement of Traffic Contraventions)</li> <li>○ Part 7 (Miscellaneous and General).</li> </ul>	
172	Bus Shelters Bus Shelters Agreement <i>Local Government (Misc Provisions Act 1953</i> <i>Public Passenger Vehicles Act 1981</i>	To manage, give effect to and take action where enabled to do so, under the bus shelters agreement.	
173	Damage to footways or street <i>Highways Act 1980 s.41</i>	To make good damage to footways or streets caused by excavation or other works on land adjoining the street and recover the expenses incurred.	
174	Entry – Powers to <i>Highways Act 1980 ss.293 &amp; 294</i>	In accordance with the provisions and to fulfil the purposes laid down under ss.293 & 294 an authorised officer/person may enter onto land or enter, examine and lay open premises.	

175	Fees and Costs	Where enabled to do so, to exercise the power to set fees, recover costs and cancel such fees and costs.
176	Fencing of Dangerous Land <i>Highways Act 1980 s.165</i>	To serve notices requiring the fencing of dangerous land adjoining the street and/or a forecourt.
177	Highway Activities <i>Highways Act 1980 s.171</i>	To grant consent in respect of activities within the highway.
178	Licences - General	Where empowered to do so to issue, revoke, enforce and take enforcement actions for licences issued in relation to highway matters.
179	Outward Opening Doors <i>Highways Act 1980 s.153</i>	To grant consent for an outward opening door onto the highway and to serve notices requiring outward opening doors onto a street to be altered.
180	Ownership of Land <i>Highways Act 1980 s.297</i>	Power of the Highway Authority or Council to require information as to the ownership of land.
181	Removal of – Barbed Wire <i>Highways Act 1980 s.164</i>	To issue notice for the removal of barbed wire causing a nuisance to the highway.
182	Removal of - Obstructions <i>Highways Act 1980 ss.143 &amp; 149</i>	To serve notices to remove obstructions from the highway and take urgent action to remove dangerous obstructions which need to be removed without delay.
183	Removal of – Items from the highway <i>Highways Act 1980 s.149</i>	To sign and serve notices in respect of the removal of things from the highway which are creating a nuisance.
184	Removal of – Snow, collapsed banks and/or obstructions <i>Highways Act 1980 s.150</i>	To arrange for the removal of accumulations of snow or collapsed banks on the side of the highway or anything else causing an obstruction to the highway (Also exercised by the Director of Operations).
185	Rope etc across the highway <i>Highways Act 1980 s.162</i>	To commence proceedings where a person has not taken all necessary means to give adequate warning of the danger.
186	Scaffolding <i>Highways Act 1980 s.169</i>	To grant licences for the erection of scaffolding on the highway.



187	Skips <i>Highways Act 1980 s.139 &amp; 140</i>	To grant permission to site builders' skips on the highway and to exercise the Council's powers relating to the removal or repositioning of skips in the highway.
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## Highway Management

HST

191	Vehicles and Appliances <i>Highways Act 1980 s.300</i>	Right of local authorities to use vehicles and appliances on footpaths and bridleways.
192	Water on the Highway	To serve notices requiring the prevention of water falling or flowing onto the highway.
193	Highway Management – Overarching Power <i>Highways Act 1980</i>	To exercise any powers, rights and duties under the Highways Act 1980 and any other enabling power.
194	Adoption of highway to be maintained at the public expense <i>Highways Act 1980 ss.38 &amp; 228</i>	To adopt highway as that to be maintained at the public expense either by agreement, by the issue of the appropriate notice or by fulfilling the requirements of any other enabling power. To give consideration to, and where considered necessary, to implement provisions available to call in any bond or security in relation to the adoption of highway to be maintained at the public expense.
195	Agreement with neighbouring authorities (Moiety Agreements)	To enter into agreements with neighbouring authorities in order to maintain cohesive network management duties.
196	Agreements for the use of Highway Land <i>Highways Act 1980 s.253</i>	To enter into agreements to mitigate the effects of construction, improvement, existence or use of a highway upon the surroundings of the highway.
197	Agreements for drains and sewers Water Industry Act 1991 s.115	To enter into agreements with sewage undertakers to use highway drains as sewers and/or sewers as highway drains.
198	Classification of Roads	To designate the classification of a road and identify and designate a road as traffic sensitive or that of special engineering difficulty. Where appropriate to do so to vary or revoke such classifications or designations.
199	Closure and Diversion of Roads	To agree, advertise and implement road closures and diversions.

200	Conversion of a footpath to cycleway <i>Cycle Tracks Act 1984.</i>	To convert a definitive footpath to a cycle track following the procedure set out in the Cycle Tracks Regulations 1984 and obtaining the written consent of any persons with a legal interest in the land.
201	Construction within the Highway <i>Highways Act 1980 s.179</i>	To grant consents to permit construction of any part of a building, vault, arch or cellar etc. within the public highway.
202	Creation of footpaths and bridleways <i>Highways Act 1980 s 26.</i>	To enter into a creation agreement where it is expedient that a path should be created, having regard to the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public.
203	Dedication of Highway	To consider, and where appropriate, enter into or instruct the drafting of an agreement for the dedication of land as highway maintained at the public expense.
204	Definitive Map and Statement <i>Wildlife and Countryside Act 1981 ss.53, 56 and 57</i>	Duty to keep the definitive map and statement under continuous review, the effect of the definitive map and statement to the particulars contained therein and the supplementary provisions as to the definitive map and statement in relation to the scale of maps.
205	Fencing Highways <i>Highways Act 1980 s.80</i>	To exercise the power to fence highways.
206	Footways – Cellar openings <i>Highways Act 1980 ss.179 &amp; 180.</i>	To exercise control in relation to openings in footways for cellars.
208	Gateways <i>Highways Act 1980 s.145</i>	To serve notices requiring gateways to be enlarged or gates to be removed from across the highway, footpaths or bridleways.
209	Drainage <i>Land Drainage Act 1991</i>	To exercise the powers of the Council under the Land Drainage Act 1991.
210	Enforcement – General power	Where empowered to do so to issue notices, take and manage enforcement action and to initiate proceedings either upon a breach, to ensure compliance or to fulfil a duty in accordance with highway legislation.

211	Highway Bridges <i>Highways Act 1980 ss.176 &amp; 177</i>	To issue licences in respect of ‘over-sailing’ and building bridges over the public highway.
212	Highway Register - List of Streets <i>Highways Act 1980 s.36</i>	To maintain and make available the list of streets maintained at the public expense and to provide this information in any other format that may be suitable in the circumstances.
213	Highway Works <i>Highways Act 1980 s.278</i> <i>Town and Country Planning Act 1990 s.106</i>	To enter into an agreement for the execution of highway works and to exercise any rights and enforce any provision within any such agreement.
213a	<i>Transport and Highway Improvements</i> <i>Town and Country Planning Act, 1990 s.106</i>	To secure transport and highway infrastructure through and pursuant to S106 Legal agreements and to authorise the Chief Legal Officer to enter into relevant agreements to secure and ensure the delivery of, such contributions.
214	Hoardings <i>Highways Act 1980 ss.172 &amp; 173</i>	To issues or refuse consents and/or licences and where appropriate manage and enforce the erection of hoardings and to commence proceedings for breach or non-compliance.
215	Improvements	To identify and implement Highway, Street Lighting, Traffic and Safety improvements subject to the approval of the Cabinet Member.
216	Interference of Right of Way <i>Highways Act 1980 s.137A</i>	To issue notice for the interference of a right of way by crops.
217	Licences - General	Where empowered to do so to issue, revoke, enforce and take enforcement actions for licences issued in relation to highway matters.
218	Local Access Forum <i>Countryside and Rights of Way Act 2000 ss.94 &amp; 95</i>	To establish and appoint members to a Local Access Forum.
219	Maintenance of the Highway <i>Highways Act 1980 s.41</i>	To manage, as client, the duty to maintain highways maintainable at the public expense.
220	Network Management Duty <i>Traffic Management Act 2004 Part II</i>	Carry out the network management duty in accordance with Part II of the Traffic Management Act.

221	Overhead Beams etc <i>Highways Act 1980 s.178</i>	To grant consent for overhead beams, rails, pipes, cables, wires etc. over the highway.
222	Path Creation Orders <i>Countryside &amp; Rights of Way Act 2000 s.58</i>	To make an application for the purposes of enabling access to land.
223	Permit Schemes <i>Traffic Management Act 2004 Part III</i>	To prepare and submit permit schemes.
224	Planting and Maintenance of Shrubs and Trees <i>Highways Act 1980 ss.141 &amp; 142</i>	To issue notice and to act in relation to the prohibition of the planting of shrubs and trees as described under s.141 and to grant licences to plant and maintain trees and shrubs etc within the public highway under s.142.
225	Ploughing/Disturbance of a footway or bridleway <i>Highways Act 1980 s.134 (as amended) and Countryside and Rights of Way Act 2000 s.70(2)</i>	To issue notices for the ploughing/disturbance of a footpath or bridleway.
226	Removal of – Signs	To require the removal of signs for the guidance or direction of road users and to enter land to remove signs in default.
227	Road Markings and Signs	To determine the style, extent and location of road markings and signs.
229	Retaining Walls	Where enabled to do so, to grant consent for the erection of retaining walls near streets and the service of notices requiring the repair of dangerous retaining walls.
230	Rights of Way <i>Highways Act 1980 sch.12A</i>	To issue all necessary authorisations and notices required to enable the Council to protect the definitive rights of way network.
231	Highway Activities <i>Highways Act 1980 s.171</i>	To grant consent in respect of activities within the highway.
232	Stiles on footpaths and bridleways <i>Highways Act 1980 ss.146 &amp; 147</i>	To take all reasonable steps to fulfil the Council’s duty to maintain stiles on footpaths and bridleways and to authorise the erection of stiles etc.

233	Stopping Up and/or Diversion of Highway <i>Highways Act 1980</i> <i>Town and Country Planning Act 1990</i> <i>Countryside and Rights of Way Act 2000</i>	Where enabled to do so, to make application to the relevant body, and in accordance with the relevant procedure, to proceed with the ‘stopping up’, ‘diversion’ or extinguishment of public highway or rights of way.
234	Street Decorations <i>Highways Act 1980 s.144</i>	To permit the erection of flagpoles, pylons and other structures on the highway for displaying decorations.
235	Street Events <i>Town and Police Clauses Act 1847</i> <i>s.21</i>	To determine applications in respect of orders for temporary street closures to enable events and processions to be held.
236	Street Furniture	To grant consents to parish councils to provide bus shelters, seats, lampposts etc where there are no financial implications for this Council.
237	Street Works <i>Highways Act 1980</i> <i>New Roads &amp; Street Works Act 1991</i>	Where empowered to do so to grant highway and street works licences.
238	Street Works – Inspections <i>New Roads &amp; Street Works Act 1991 s.72</i>	To carry out street works inspections and to require undertakers to carry out works to defective reinstatements or where necessary to carry out works on behalf of the undertaker and recharge for said works.
239	Street Works - Charge for occupation of the Highway <i>New Roads &amp; Street Works Act 1991 s.74</i>	To levy charges upon undertakers where the undertakers work in the publicly maintained highway is unreasonably prolonged.
240	Street Works - Co-ordination of Works <i>New Roads &amp; Street Works Act 1991 s.59</i>	To exercise the duty of the Council, as Highway Authority, to co-ordinate street works.
241	Street Works Register <i>New Roads &amp; Street Works Act 1991 s.53</i>	To carry out the Council’s duty, as Highway Authority, to maintain a street works register.

242	Street Works - Restriction of Works <i>New Roads &amp; Street Works Act 1991 s.58</i>	Where substantial road works have been undertaken to exercise a restriction of future works as appropriate.
243	Street Works - Streets with special engineering difficulties <i>New Roads &amp; Street Works Act 1991 s.63 and Sch 4</i>	To exercise the powers of the Council as Highway Authority in respect of streets with special engineering difficulties.
244	Street Works – Timing of <i>New Roads &amp; Street Works Act 1991 s.56</i>	To enable the issue of a direction upon an undertaker as to the timing of proposed street works.
245	Street Works - Traffic Sensitive Streets <i>New Roads &amp; Street Works Act 1991 s.64</i>	To designate a street or part of a street as traffic sensitive.
246	Street Works – Unauthorised Street Works <i>New Roads &amp; Street Works Act 1991 s.51</i>	To give direction to any person to remove apparatus or carry out reinstatement works and upon failure to comply with such a direction to remove apparatus and/or carry out reinstatement works and recover from that person any costs of doing so.
247	Street Works – Utility Apparatus (Location of) <i>New Roads &amp; Street Works Act 1991 s.80</i>	To inform undertakers of any utility apparatus that is unmarked or incorrectly marked.
248	Street Works – Utility Apparatus (Maintenance of) <i>New Roads &amp; Street Works Act 1991 s.81</i>	To issue notice of and undertake works to enable the inspection and/or maintenance of apparatus and recover the costs incurred in doing so from the undertaker.
249	Traffic Regulation <i>Road Traffic Regulation Act 1984</i>	To advertise and make Traffic Regulation Orders for whatever permitted purpose and where objections have been received to approve Traffic Regulation Orders in consultation with the relevant Cabinet Member and Ward Councillors.
250	Vehicle Crossings <i>Highways Act 1980 s.184</i>	To serve a notice that the Council proposes to construct a vehicle crossing or impose conditions on the use of a footway as a vehicle crossing.
251	Walkway Agreements <i>Highways Act 1980 s.35</i>	To implement the Council’s powers, as Highway Authority, to create walkways by agreement.

252	Place orders for Statutory Undertakers where required for highway works	To enter into agreements with statutory undertakers to carry out works to their plant where this work is required under the NRSWA and the Highway Act.
253	Removal of illegal advertising	To remove and service notice in respect of removal of advertising signs on the public highway
254	Removal of items from the highway <i>Section 149 of the Highways Act 1980</i>	To sign and serve notice in respect of the removal of things from the highway which are creating a nuisance.
255	<i>Section 66 Highways Act 1980</i>	To safeguard users of public footpaths and bridleways provide such barriers posts rails or fences as required.
256	<i>Section 154 Highways Act 1980</i>	To serve notices to remove hedges trees or shrubs that overhang obstruct or are a danger to highway users.
257	<i>Section 31A Highways Act 1980</i>	To authorise the provision of amenities within the specified types of highway.
258	Section 53B Wildlife and Countryside Act 1981	To keep a register of applications made under section 53(5) Wildlife and Countryside Act 1981.
259	Removal of illegal signs <i>Section 57 National Parks and Access to the Countryside Act 1949</i>	To remove and service notice in respect of removal of misleading signs on public rights of way

## Passenger Transport

HST

260	Licences – Objections <i>Transport Act 1968 and the Goods Vehicles (Operators Licences Qualifications and Fees) Regulations 1984.</i>	To lodge formal objections to the Licensing Authority.
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| 261  | Bus Services<br><i>Transport Act 1985 (as amended in 2000 and 2008)</i>  | To provide bus services if required  |
| 261a | <i>Transport Act, 1985 (as amended in 2000 and 2008)</i><br><br><i>Planning Obligations Town and Country Planning Act S106</i> | To procure bus services pursuant to S106 legal agreements and to authorise the Chief Legal Officer to enter into agreements to ensure the provision of services where appropriate. |

### **Car Parks Administration**

**HST**

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| 262 | Car Park Maintenance Budget | To determine and implement individual schemes within the Council's agreed Car Park Maintenance Budget, subject to the approval of the relevant Cabinet Member. |
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### **Traffic Regulation**

**HST**

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| 263 | Traffic Regulation- request  | To advertise and request the Chief Legal Officer to make Traffic Regulation Orders.  |
| 264 | Traffic Regulation – approve | To approve Traffic Regulation Orders in consultation with the relevant Cabinet Member and Ward Councillors, where objections have been received. |

### **Flood and Water Management**

**HST**

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| 265 | Flood and Water Management<br><i>Flood and Water Management Act 2010</i> | To fulfil the Council's functions as Lead Local flood authority. |
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### **Licensing**

**DSDG**

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| 266 | Public Space Protection Orders.<br><i>Ss59-75, Anti-Social Behaviour, Crime and Policing Act 2014</i> | In accordance with the provisions of Chapter 2 Anti-Social Behaviour, Crime and Policing Act 2014 to consider all the circumstances and determine, after consultation with interested parties where necessary, whether it is appropriate and expedient to make a public spaces protection order where activities are or are likely to be carried out in a public space that have a detrimental effect on the quality of life. |
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<p>267 Skin Piercing, Acupuncture, semi-permanent make-up, Tattooing and Invasive Skin Treatment <i>Part VIII of the Local Government (Miscellaneous Provisions) Act 1982</i></p>	<p>To issue registrations and licences of persons and premises carrying on the practice of acupuncture, skin piercing, semi-permanent make-up, tattooing and invasive skin treatment or the business of tattooing, ear piercing or electrolysis and invasive skin treatment. To inspect registered premises and enforce the provisions of the Act.</p>
<p>268 House to House/Street Collections <i>House to House Collections Act 1939</i> <i>Police, Factories etc. (Miscellaneous Provisions) Act 1916 as amended</i></p>	<p>To grant licences and permits relating to house-to-house collections and issue street collection permits.</p>
<p>269 Scrap Metal Dealers <i>Scrap Metal Dealers Act 2013</i></p>	<p>To administer and enforce the provisions of the Act in respect of all applications and renewals together with licensed operator of sites and mobile collection.</p>
<p>270 Poisons <i>Poisons Act 1972</i></p>	<p>To register persons to sell non-medicinal poisons and to enforce the provisions of the Act.</p>
<p>271 Licensing <i>Licensing Act 2003</i></p>	<p>To determine licence applications under the Licensing Act 2003 pursuant to the scheme of delegation contained within the Council's Statement of Licensing Policy.</p>
<p>272 Licensing of sex shops, sex cinemas and sex establishments <i>Local Government Miscellaneous Provisions Act 1982</i> <i>Local Policing Act 2007</i></p>	<p>To exercise the Council's powers under the Local Government Miscellaneous Provisions Act 1982 (as amended by the Local Policing Act 2007) in respect of sex shops, sex cinemas and sex establishments</p>
<p>273 Health and Safety <i>Explosives Act 1875</i> <i>Explosives Act 1975</i> <i>Health and Safety at Work etc. Act 1974</i> <i>Fire Precautions Act 1971</i></p>	<p>To be an inspector and exercise the Council's functions. <i>(exercised concurrently with the Director of Public Health)</i></p>
<p>274 Health and Safety at Work <i>Health and Safety at Work etc. Act 1974</i></p>	<p>To exercise the functions of the Council in relation to the Health and Safety at Work etc. Act 1974. <i>(exercised concurrently with the Director of Public Health)</i></p>

- 275 Sunday Trading  
*Sunday Trading Act 1994* To enforce the provisions of the Act. (*exercised concurrently with the Director of Public Health*)

## **Taxi Licensing**

**DSDG**

- 276 Licences - Taxi and Private Hire  
*Town Police Clauses Act 1847 (as amended)*  
*Local Government (Miscellaneous Provisions) Act 1976* To: - (a) grant or renew Hackney Carriage and Hackney Carriage Drivers' licences and (b) grant or renew licences for private hire vehicles, and for drivers and operators of such vehicles.
- 277 Taxi Licensing  
*Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Road Traffic Act 1991* Where it appears that the interests of public safety require it, to suspend or revoke with immediate effect or otherwise a Hackney Carriage or Private Hire Drivers Licence in the light of evidence obtained through operations or checks, or as a result of details provided by the Police or other partners.
- 278 Taxi Licensing  
*Local Government (Miscellaneous Provisions) Act 1976 Part 2* To appoint authorised officers for Taxi Licensing duties.
- 279 Inspections  
*Local Government (Miscellaneous Provisions) Act 1976* To nominate officers from time to time to inspect and test, for the purposes of ascertaining fitness, any Hackney Carriage or Private Hire Vehicle licensed or proposed to be licensed by the Council or any taxi meter affixed to such vehicle, and for the purpose as maybe required under the enabling statute.

## **Gambling**

**DSDG**

- 280 Licensing Administration and Enforcement  
*Gambling Act 2005* To exercise the Council's powers under the Gambling Act 2005 pursuant to the scheme of delegation contained within the Council's Statement of Licensing Policy.

## **Development Management - DSDG**

**DSDG**

- 281 Enforcement Action
- To deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including Stop Notices, Temporary Stop Notices, Breach of Condition Notices, S.215 Notices, Planning Contravention Notices, S.225 Notices, listed building enforcement, Protected Tree Enforcement, Building Preservation Notices and urgent works notices and taking any further action, including requesting the Chief Legal Officer to prosecute and/or to take direct action in respect of any breach of control);
- 282 Applications for vendor or lessor consent in respect of residential properties.
- To determine applications for vendor or lessor consent in respect of residential properties, but in cases where he/she is doubtful whether to issue such consent he shall refer the matter to the Planning Committee for decision. If the Director of Strategic Development and Growth intends to refuse any consent which does not follow a refusal of planning permission for the same proposed development then the matter must be referred to the Planning Committee.
- 283 Tree Preservation Orders  
*(Part VIII of the Town and Country Planning Act 1990, amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012). S.23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976*
- To make and confirm Tree Preservation Orders; serve Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to request the Chief Legal officer to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters; determine requests to lop, top, or fell trees in Conservation Areas or covered by Tree Preservation Orders and in relation to Dangerous Trees.

<p>284 Determination of planning and other related applications and submissions (LB Consent, Non Material Amendments, etc.) <i>Town and Country Planning Act, 1990 and related legislation</i></p>	<p>To determine all planning and related applications and submissions (including the negotiation of s106 agreements) under delegated powers, except where</p> <p>(a) the Director of Strategic Development and Growth determines it should be determined by the Planning Committee; or</p> <p>(b) an application in writing requesting consideration by the Planning Committee has been received from a Member no later than 21 (or 14*) calendar days following validation of the application or the expiration of any consultation period; or</p> <p>(c) a Parish or Town Council has requested in writing no later than 21 (or 14*) calendar days following notification of the application that the Planning Committee consider an application because it raises significant planning issues and/or is locally controversial (such requests from a Parish or Town Council shall clearly set out the reasons why an application is considered to raise significant planning issues).</p> <p>(d) The Secretary of State has indicated the application is to be called in under section 77 of the Town and Country Planning Act 1990</p>
	<p>* The reference to 14 calendar days shall apply in respect of applications for Permission in Principle and Technical Details Consent.</p>
	<p>In the event a s106 Deed of Obligation has been entered into, thereafter to:</p> <ul style="list-style-type: none"> <li>a) monitor and secure compliance with the planning obligations contained therein;</li> <li>b) to instruct the Chief Legal Officer in respect of enforcement of obligations and to act on completion of the transfer of land to the Council where bound by planning obligation</li> </ul>
<p>285 Planning Performance Agreement</p>	<p>To negotiate and implement Planning Performance Agreements (PPA's)</p>
<p>286 Planning Responses</p>	<p>To deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance.</p>

287	Certificates of lawfulness of existing use or development (CLUEDs) and Certificates of lawfulness of proposed use or development (CLOPUDs)	Following consultation with the Chief Legal Officer, where necessary, to determine under delegated powers all matters concerning certificates of lawfulness including CLUEDs and CLOPUDs.
288	Discharge conditions	To agree design codes, plan amendments and discharge conditions imposed by planning or other permissions under delegated powers.
289	Planning obligations (S106)	To authorise the Chief Legal officer to enter into, modify, discharge or enforce planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990). To prepare and publish (with the support of Finance) any reports required by Government associated with S106 obligations secured, financial payments made, allocation and use of s106 planning obligation receipts.
290	(Minor) Material Amendments, Non-Material Amendments etc.	To determine whether a proposed amendment to a planning permission is material or non-material
291	Prior Approvals	To determine all prior approval applications including those for agricultural, householder, commercial or other prior approval requirements under delegated powers. Applications by telecommunications operators can only be referred to planning committee where the timescales for doing so permit.
292	Planning appeals and appeals against non- determination of a planning application	To deal with all types of appeal and their format; set out the position of the Local Planning Authority in respect of an appeal against non- determination of a planning application (that would fall within the scheme of delegation) as it would have determined the application if it had been able to.
293	Brownfield Register	To prepare, maintain and publish at least annually, Part 1 of the Brownfield Register.
294	Permitted development Rights <i>Town and Country Planning (General Permitted Development (England) Order) 2015.</i>	To make and confirm Article 4 directions restricting or removing permitted development rights

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| 295 | Local Development Orders<br><i>Planning and Compulsory Purchase Act, 2004</i>   | To make and confirm Local Development Orders following relevant consultation.   |
| 296 | Validation of Planning Applications<br><i>Town and Country Planning (Development Management Procedure (England) Order) 2015.</i>  | To determine the requirements for, and review at least biannually and amend when necessary – the local validation list for planning applications.   |
| 297 | Determination of planning and other related applications and submissions (LB Consent, Non Material Amendments, etc.)<br><i>Town and Country Planning (Development Management Procedure (England) Order) 2015. Town and Country Planning Act, 1990 and related legislation</i> | To make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee’s decision. Any such changes will be reported back to a subsequent Committee for Members’ information  |
| 298 | Determination of planning and other related applications and submissions (LB Consent, Non Material Amendments, etc.)<br><i>Town and Country Planning Act, 1990 and related legislation</i>  | To refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer’s report   |
| 299 | Development Control and Judicial Reviews  | To request Chief Legal Officer to institute and defend judicial reviews and statutory challenges.   |
| 300 | Environmental Statements<br><i>Town and Country Planning (Environmental Impact Assessment) Regulations 2017.</i>  | To decide on the need for an Environmental Impact Assessment (EIA), and the extent of an Environmental Statement, including the provision of a screening opinion and scoping opinion in connection with any planning application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and to agree any necessary subsequent updates to such environmental information. |

## Land Charges

**DSDG**

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| 301 | Land Charges<br><i>Local Land Charges Act 1975</i> | To administer to local land charges function as required by the Local Land Charges Act 1975 (as amended) |
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## Community Infrastructure Levy

**DSDG**

302	Community Infrastructure Levy Regulations, 2010 (as amended)	<p>In accord with the Community Infrastructure Levy Regulations 2010 (as amended) or any other relevant Regulations that replace them, and the requirements of the Government published on line Planning Practice Guidance relevant to the Community Infrastructure Levy (CIL):</p> <ul style="list-style-type: none"> <li>a) To oversee and implement the adoption of, and subsequent operation, enforcement and review of the Community Infrastructure Levy Charging Schedule and all associated documents, including responsibility for financial management and application of instalment and surcharge policy and the availability of discretionary relief and establishment of the relevant procedures and process.</li> <li>b) To instruct the Chief Legal Officer in respect of CIL Debt Recovery.</li> <li>c) To prepare all required statements and evidence for the CIL Charging Authority in response to CIL Appeals</li> </ul> <p>To produce and publish (with the support and input of Finance) reports on CIL Receipts as required by Government</p>
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## **Building Regulations**

**DSDG**

303	Building Regulations - Applications <i>Building Act 1984.</i>	To determine applications for Building Regulation approvals.
304	Building Regulations - Notices <i>Section 32, Building Act 1984</i>	To serve notices informing the owner that, as no work has commenced, plans deposited under the Building Regulations more than three years previously shall have no effect and any work started after the service of this notice shall be treated as if no plans had been deposited.
305	Building Regulations - Relaxation <i>Section 8, Building Act 1984</i>	To determine applications for the relaxation of building regulations.
306	Building Regulations - Contraventions <i>Section 36, Building Act 1984</i>	To take appropriate action to secure the removal or alteration of work in contravention of the Building Regulations.

## **Demolition**

**DSDG**

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| 307 Demolition of a building<br><i>Section 81, Building Act 1984</i>     | To serve notices on persons undertaking the demolition of a building to ensure that it will not cause damage, danger or nuisance.   |
| 308 Dangerous Structures<br><i>Sections 77 and 78, Building Act 1984</i> | To take appropriate action /serve relevant notices to make building or structures safe be it either by notice to a magistrates court or under emergency powers recovering relevant costs from building owner. |



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| 309 | Ruinous and Dilapidated buildings and neglected sites<br><i>Section 79, Building Act 1984</i> | To serve notice regarding dilapidated and ruinous sites |
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## Neighbourhood Planning

DSDG

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| 310 | Neighbourhood Development Plan & Neighbourhood Development Order Area<br><i>Neighbourhood Planning (General) Regulations 2012 (as amended).</i>  | To receive, consider, publicise and determine (approve/reject) proposed neighbourhood development plans and neighbourhood development orders (including community right to build orders) area designation requests from qualifying bodies and Neighbourhood Forum designation requests and publicise decisions made, unless called in for decision by Cabinet by Cabinet or local Ward Member |
| 311 | Strategic environmental assessment and habitats regulations assessment of neighbourhood development plans and neighbourhood development orders.<br><i>Environmental Assessment of Plans and Programmes Regulations 2004. The Conservation of Habitats and Species Regulations 2017</i> | To carry out screening and if appropriate a strategic environmental assessment and habitats regulations assessment of neighbourhood development plans and neighbourhood development orders (including community right to build orders) and provide a statement of reasons for determination.  |
| 312 | Receipt and consideration of final draft neighbourhood development plans and neighbourhood development orders<br><i>Neighbourhood Planning (General) Regulations 2012 (as amended).</i>  | To receive and consider, including making comments on, final draft neighbourhood development plans and neighbourhood development orders (including community right to build orders), and to inform and invite representations from people who live, work or carry on business in the area to which the plan or order relates by appropriate advertising.                                      |
| 313 | Appointment of Independent Examiner.<br><i>Localism Act 2011</i>   | To select and appoint a suitably qualified and experienced person to conduct the independent examination of a neighbourhood development plan or neighbourhood development order (including a community right to build order) in agreement with the Parish or Town Council.  |

## Licensing - Animal Welfare

DSDG

314	Animal Welfare <i>Animal Welfare (Licensing of activities involving animals)(England) Regulations 2018</i>	To exercise the Council’s functions in relation to the welfare, licensing and control of animals
315	Licences <i>Dangerous Wild Animals Act 1976</i> <i>Pet Animals Act 1951</i>	To grant or renew licences subject to such grant or renewal being only in relation to premises which have been inspected by such officers as are authorised in accordance with the provisions of the Council’s scheme of delegations.
316	Licensing <i>Dangerous Dogs Acts 1989 and 1991</i> <i>Dogs act 1871</i> <i>Dogs Protection of Livestock Act 1953</i> <i>Guard Dogs Act 1975</i>	To exercise all the Council's powers in respect of Dangerous Dogs and Control of Dogs.
317	Licences- <i>Animals Act 1971</i> <i>Control of Horses Act 2015.</i> <i>Control of trade in endangered species (Enforcement regulations) 1997.</i> <i>EU Wildlife Trade Regulations – Council regulation (EC 338/97)</i> <i>Hunting Act 2004</i> <i>Wildlife and Countryside Act 1981</i>	To exercise the Council’s powers in respect of the welfare and Control of animals.
318	Zoos <i>Zoo Licensing Act 1981</i>	To issue licences for the operation of Zoos and to enforce the provisions of the Act.
319	Illegal importation of animals - <i>The Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974.</i> <i>Non-Commercial movement of Pet Animals Order 2011</i>	To administer and enforce the provisions of the Order in respect of illegal importation, including commercial gain.
320	Animal Welfare Act 2006 – Animal Welfare (Licensing of activities involving animals) (England) Regulations 2018.	To exercise the Council’s functions in relation to the welfare, licensing and control of animals.
321	Farm Livestock, Animal Health Act 1981	To exercise the Council's powers in respect of the control of disease, welfare and movement of livestock.

- 322 Licences - *Animal Welfare Act 2006, Animals Act 1971, Control of Horses Act 2015, Control of trade in endangered species (Enforcement regulations) 1997, EU Wildlife Trade Regulations – Council regulation (EC 338/97), Hunting Act 2004, Wildlife and Countryside Act 1981*
- To exercise the Council's powers in respect of the welfare and Control of animals.

### **Licensing (Dogs)**

**DSDG**

- 323 Stray Dogs  
*Section 149, Environmental Protection Act 1990*
- To discharge the Council's functions with regard to stray dogs.

### **Safety of Sports Grounds**

**DSDG**

- 324 Safety of Sports Grounds and indoor sports facilities  
*Safety of Sports Grounds Act 1975  
Fire Safety and Safety of Places of Sport Act 1987*
- To exercise the powers of the Council in relation to the Council's functions under the Safety of Sports Grounds Act (1975) and its responsibilities for indoor sports facilities under the Fire Safety and Safety of Places of Sports Act 1987 and to exercise the Council's powers to appoint the Chair of the Safety Advisory Committee and issue safety certificates on receipt of advice from all relevant parties.

### **Refuse Collection**

**DSDG**

- 325 Collection of Waste - Notices  
*Sections 46 and 47 of the Environmental Protection Act 1990*
- To serve notices requiring an occupier to place waste for collection/storage in a receptacle of a kind and number specified. (*exercised concurrently with the Director of Public Health*)

### **Street Trading**

**DSDG**

- 326 Street Trading Consents
- To grant, renew or revoke Street Trading Consents in accordance with the Council's approved Street Trading policy.

### **Health and Safety**

**DSDG**

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| 327 | Health and Safety<br><i>Explosives Act 1875</i><br><i>Explosives Act 1975</i><br><i>Health and Safety at Work etc. Act 1974</i><br><i>Fire Precautions Act 1971</i><br><i>Manufacture and Storage of Explosives Act 2004</i> | To be an inspector and exercise the Council's functions.   |
| 328 | Sanitary Conveniences in places serving food<br><i>Local Government Miscellaneous Provisions Act 1976</i>  | To require the provision of sanitary conveniences for the public in places serving food. ( <i>exercised concurrently with the Director of Public Health</i> ). |

### **Smoking in Public Places**

**DSDG**

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| 329 | Smoking in Public Places<br><i>Health Act 2006</i> | To exercise the Council's Powers in respect of smoking in public places including the service of fixed penalty notices. |
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### **Community Protection**

**DSDG**

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| 330 | Community Protection Notices<br><i>Chapter 1, Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014</i> | In consultation with the Chief Legal Officer, to serve Community Protection Notices in accordance with Chapter 1, Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 and in the event of a breach serve fixed penalty notices.<br><i>(Exercised concurrently with the Director of Public Health and the Director Housing.)</i> |
| 331 | Public Spaces Protection Order<br><i>Anti-Social Behaviour, Crime and Policing Act 2014</i>                        | To serve fixed penalty notices in respect of any designated Public Space Protection orders.  |

### **General**

**DSDG**

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| 332 | Requisitions for information<br><i>Local Government (Miscellaneous Provisions) Act 1976</i> | To serve requisitions for information as to ownership/occupation on all persons having an interest in premises. ( <i>exercised concurrently with the Director of Public Health</i> ) |
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| 333 | Entry onto and inspection of land and premises<br><i>Health and Safety at Work etc. Act 1974</i>                                    | Where the enabling statute permits, to authorise persons not appointed by this Council to enter upon land or premises in order to carry out their respective duties and in particular, but without prejudice to the generality of this authority, to authorise the Chief Fire Officer and officers of the Fire Brigade to enter upon land or premises for the purpose of examination of means of escape in case of fire in accordance with the Housing Act 1985 and appropriate licensing functions ( <i>exercised concurrently with the Director of Public Health</i> ) |
| 334 | Power of Entry<br><i>The Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990</i> | To authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Act and related Acts.   |

## **Street Naming and Property Numbering**

**DSDG**

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| 335 | Gazetteer     | Implement procedures to (re)name and (re)number existing streets in consultation with residents and where appropriate ward members. To develop and maintain the relevant Gazetteer(s) in respect of streets and properties and to make available in accordance with the MSA. |
| 336 | Street Naming | To name new streets, subject to consultation with other appropriate officers as necessary, the Royal Mail and with Parish Councils where applicable.   |

## **Trading Standards**

**DSDG**

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| 337 | Sunday Trading<br><i>Sunday Trading Act 1994</i> | To enforce the provisions of the Act.  |
| 338 | Trading Standards                                | In respect of trading standards:-<br>(a) to exercise the powers of the Council, (b) to allow authorised officers from local authorities to act in Swindon on behalf of their Councils or on behalf of the Council in relation to trading standards, and (c) to authorise such officers of the Council as he may determine to act in an area of another local authority in relation to trading standards. |

339 Trading Standards  
*Licensing Act 2003*

In conjunction with the Director of Strategic Development and Growth, Trading Standards staff are authorised to enforce those provisions of the Licensing Act (as amended) which prohibit the sale of alcohol to persons less than 18 years of age.

# CORPORATE DIRECTOR OF CHILDREN'S SERVICES (CDCS)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
		<b>Children's Services</b>	<b>CDCS</b>
340	Children's Services	To exercise the functions of the Borough Council as a Children's Services Authority as set out in Section 18 of the Children Act 2004 and to take such other action which he/she considers is calculated, or is conducive or incidental to, the discharge of these functions.	
341	Children's Services SEND <i>Children's Services, Children and Families Act 2014, Part 3</i>	To exercise the functions of the Borough Council specific to the provision of services for children with special education and disabilities.	
342	Swindon Foster Panel	To discharge the Council's functions in respect of maintaining a Central List of persons who are considered to be suitable to be members of the fostering panel.	

# CORPORATE DIRECTOR OF ADULTS, HEALTH AND HOUSING (CDAHH)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
<b>Adult Social Services</b>			<b>CDAHH</b>
343	Adult Social Services	To exercise the functions of the Borough Council in respect of the provision of Adult Social Services, excepting functions specifically delegated to another Officer, and to take such other action which he/she considers is calculated to facilitate, or is conducive or incidental to, the discharge of these functions.	
344	Adult Social Services - safeguarding	To secure safeguarding and protection arrangements for vulnerable people, in line with legislation, national guidance and best practice.	
<b>Channel/Prevent Duties</b>			<b>CDAHH</b>
430	Channel Panel and Prevent duties, <i>Section 36, Counter Terrorism and Security Act 2015</i>	In consultation with the Cabinet Member whose portfolio includes Community Safety, to be responsible for the creation, operation and formal reporting of the Channel Panel, as required by legislation.	
<b>Community Safety</b>			<b>CDAHH</b>
430a	Community Safety duties <i>Crime and Disorder Act 1998, Police, Crime, Sentencing and Courts Act 2022, Police and Justice Act 2006</i>	To exercise the functions of the Borough Council in respect of the promotion of community safety, including policy and strategy development and implementation, and representation on internal and external boards and partnership groups.  To act as the Senior Responsible Officer as required under relevant legislation.	



## DIRECTOR OF HOUSING (DH)

<b>No.</b>	<b>Subject/ Enabling Statute</b>	<b>Authority</b>	<b>Officer</b>
<b>Regeneration and Acquisition Fund</b>			<b>DH</b>
345	Regeneration and Acquisition Fund	In consultation with the Corporate Director, Finance and Assets (Section 151 Officer), the Director of Housing and the Cabinet Member with portfolio responsibility for Housing, to use the Regeneration and Acquisition fund of up to £1m, to purchase 1 and 2 Bedroom accommodation to enable these properties to be included with the Council's housing stock.	
<b>Right to Buy</b>			<b>DH</b>
346	Right to Buy. <i>Housing Act 1985, the Housing and Planning Act 1986 and the Housing Act 1988 and the Leasehold Reform, Housing and Urban Development Act 1993</i>	In conjunction with the Chief Legal Officer, to carry out the Council's functions concerning the Right to Buy. [Right to Buy. Housing Act 1985, the Housing and Planning Act 1986 and the Housing Act 1988 and the Leasehold Reform, Housing and Urban Development Act 1993	
<b>Estate and Tenancy Management</b>			<b>DH</b>
347	Housing Management	To deal with Housing Management matters arising from the day-to-day management of the Council's housing stock.	
348	Notices and Possession Action <i>The relevant Housing Acts and the Law of Property Act 1925</i>	To sign notices and take possession action, under the Housing Acts, to sign notices to determine licences and notices to quit premises held under non-secure tenancies. <i>(The authorisation to sign notices under Section 83 of the Housing Act 1985 is exercised concurrently with the Chief Legal Officer)</i>	
349	Evictions	To take all necessary action with regard to the eviction of tenants in breach of suspended possession orders.	
350	Protection from Eviction <i>Protection from Eviction Act 1977 (as amended)</i>	To investigate alleged breaches of the Protection from Eviction Act 1977 (as amended) by way of alleged harassment or unlawful eviction.	

- 351 Local Lettings Plans To introduce local lettings plans in order to maintain strong and cohesive communities.

## **Allocations and Housing Advice**

**DH**

- 352 Housing Allocation Policy To carry out the Council's allocation policy.
- 353 Housing Allocation Policy To approve owner occupiers under 60 years of age with a medical issue to be allowed to bid for properties.

## **Homelessness**

**DH**

- 354 Homelessness  
*Homelessness Reduction Act 2017* To carry out the Council's functions regarding Homelessness.
- 355 Protection from Eviction  
*Protection from Eviction Act 1977 (as amended)* To investigate alleged breaches of the Protection from Eviction Act 1977 (as amended) by way of alleged harassment or unlawful eviction.

## **Housing Maintenance**

**DH**

- 356 Adaptation of Council houses for use by disabled persons To approve, within the estimated provision for this purpose, works of adaptation to Council houses for the use of the properties by disabled persons following the means testing of the tenant.
- 357 Re-imburement of tenants on the termination of a tenancy To agree the re-imburement of tenants, on the termination of the tenancy of a Housing Revenue Account dwelling, in respect of central heating or garages provided by such tenants. .

## **Travellers and Gypsy Site Management**

**DH**

- 358 Unauthorised Encampments  
*Part 5 of the Criminal Justice and Public Order Act 1994* To determine the action required to remove unauthorised campers within the Borough, and to give a Direction under Part 5 of the Criminal Justice and Public Order Act 1994, if appropriate, and if necessary, to request the Police to invoke their powers under the Criminal Justice and Public Order Act 1994.

## **Enforcement (Director of Housing)**

**DH**

426 Enforcement Action

To deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including Stop Notices, Temporary Stop Notices, Breach of Condition Notices, S.215 Notices, Planning Contravention Notices, S.225 Notices, listed building enforcement, Protected Tree Enforcement, Building Preservation Notices and urgent works notices and taking any further action, including requesting the Chief Legal Officer to prosecute and/or to take direct action in respect of any breach of control).

## Anti-Social Behaviour

DH

81 Anti-social Behaviour Injunctions  
*Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014*

To seek Civil Injunctions and, where appropriate, make applications for breach.

427 Community Protection Notices  
*Chapter 1 of Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014*

In consultation with the Chief Legal Officer, to serve Community Protection Notices in accordance with Chapter 1 of Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 and in the event of a breach serve fixed penalty notices.  
*(Exercised concurrently with the Director of Public Health and the Director of Strategic Development and Growth)*

428 Closure Notices and Closure Orders  
*Part 4 of Chapter 3 of the Anti-Social behaviour, Crime and Policing Act 2014*

In consultation with the Chief Legal Officer, to issue Closure Notices and apply for Closure Orders.  
*(Exercised concurrently with the Director of Public Health).*

428a Community Case Reviews  
*Part 6 of the Anti-Social Behaviour, Crime and Policing Act 2014*

In consultation with the Chief Legal Officer, to undertake Community Case Reviews initiated by the public in accordance with Anti-Social behaviour, Crime and Policing Act 2014.

## DIRECTOR OF PUBLIC HEALTH (DPH)

<i>Subject/ Enabling Statute</i>	<i>Authority</i>	<i>Officer</i>
	<b>Food Safety</b>	<b>DPH</b>
409 Food Safety <i>National Assistance Act 1948 and 1951 Public Health (Infectious Diseases) Regulations 1968</i>	To authorise the Council's functions under this legislation to be discharged by the Consultant for Communicable Disease Control, Environmental Health Officer, or other registered Medical Practitioner approved by the Council.	

## Grants

**DPH**

418 Grassroots Grants	In consultation with the appropriate Cabinet Member, to approve the award of Grassroots Grants.	
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## HEAD OF ENVIRONMENTAL HEALTH (HEH)

<i>Subject/ Enabling Statute</i>	<i>Authority</i>	<i>Officer</i>
	<b>Health and Safety</b>	<b>HEH</b>
359 Health and Safety <i>Explosives Act 1875 Explosives Act 1975 Health and Safety at Work etc. Act 1974</i>	To be an inspector and exercise the Council's functions. ( <i>exercised concurrently with the Director of f Development and Growth</i> )	
360 Health and Safety at Work <i>Health and Safety at Work etc. Act 1974</i>	To exercise the functions of the Council in relation to the Health and Safety at Work etc. Act 1974. ( <i>exercised concurrently the Director of Strategic Development and Growth</i> ).	
361 Sanitary Conveniences in Workplaces <i>Section 65, Building Act 1984</i>	To serve notices requiring the provision of sanitary conveniences in workplaces	
362 Sunday Trading <i>Sunday Trading Act 1994</i>	To enforce the provisions of the Act ( <i>exercised concurrently the Director of Strategic Development and Growth</i> ).	

## Environmental Protection

DPH

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| 363 Burial and/or Cremation<br><i>Section 46, Public Health (Control of Disease) Act 1984</i>                               | Causing and arranging the burial or cremation of the body of any person where no suitable arrangements have been made for the disposal.   |
| 364 Caravan Site Licences<br><i>Sections 3, 8, 9, 10 and 12A-E of the Caravan Sites and Control of Development Act 1960</i> | To exercise the Council's powers in relation to the issue, amendment or transfer and enforcement of Caravan Site licences.  |
| 365 Noise Control<br><i>Part 3, Control of Pollution Act 1974</i>   | To exercise the Council's powers in the control of noise relating to construction sites, plant or machinery, and in the street.   |
| 366 Cesspools<br><i>Section 50, Public Health Act 1936</i>  | To serve notices to require works etc. to prevent soakage or overflow of a cesspool.  |
| 367 Drainage of Buildings<br><i>Section 59, Building Act 1984</i>   | To serve notices requiring works to cesspools, private sewers, drains, etc. which are insufficient, prejudicial to health or a nuisance.  |
| 368 Drainage - Yards and Passages<br><i>Section 84, Building Act 1984</i>   | To serve notices requiring the paving and drainage of courts, yards or passages.  |
| 369 Drains and Private Sewers<br><i>Section 48, Public Health Act 1936</i>  | To test and examine certain drains and private sewers.  |
| 370 Filthy or Verminous Premises or Articles<br><i>Sections 83 and 84, Public Health Act 1936</i>                           | To authorise the cleansing, purification, disinfestation or destruction of articles or premises considered to be filthy or verminous.   |
| 371 Drains and Sewers<br><i>Section 17, Public Health Act 1961</i>  | To serve notices and carry out works to (a) repair drains, private sewers, water closets, waste pipes and sewer pipes which are not sufficiently maintained and kept in good repair and which can be repaired at a cost not exceeding £250 and recovering the costs incurred, and (b) remedy stopped up drains, private sewers, water closets, waste pipes and sewer pipes and recovering the costs incurred. |
| 372 Moveable Dwellings<br><i>Section 269, the Public Health Act 1936.</i>   | To exercise the powers of the Council (Use of land for moveable dwellings etc.).  |

373	Notices <i>Section 80, Environmental Protection Act 1990</i>	To serve notices on behalf of the Council, in conjunction with the Director of Strategic Development and Growth.
374	Statutory Nuisance – Proceedings and Forfeiture. <i>Environmental Protection Act 1990 s.80, Noise Act 1996 Schedule</i>	Request the Chief Legal Officer to commence proceedings in case of nuisance, including for forfeiture of seized equipment, in conjunction with the Director of Strategic Development and Growth and Growth.
375	Notices - Enforcement <i>Section 81 (3) and Paragraph 2(3) of Schedule 3 of the Environmental Protection Act 1990 and Noise Act 1996 s.10</i>	To exercise the powers of the Council in relation to the enforcement of notices issued under Section 80 of the Environmental Protection Act 1990, in conjunction with the Director of Strategic Development and Growth.
376	Enforcement Action <i>Part III of the Food and Environment Protection Act 1985 Control of Pesticides Regulations 1986</i>	With all officers nominated by him/her under the provisions of this Scheme of Delegations, to enforce Part III of the Food and Environment Protection Act 1985 in relation to contraventions of the Control of Pesticides Regulations 1986, in those premises for which this Council is the enforcing authority by virtue of Regulation 3 of the Health and Safety (Enforcing) Regulations 1989 and in private dwellings (non-work activities) but providing that no enforcement authority shall be given for any contravention of Regulation 4(1) of the Control of Pesticides Regulations 1986 which relates to the advertising of a pesticide.
377	Public Sewers - obstructions <i>Section 35, Local Government (Miscellaneous Provisions) Act 1976</i>	To serve notices requiring the removal of obstructions from public sewers and carrying out works in default.
378	Ruinous and Dilapidated Buildings <i>Section 79, Building Act 1984</i>	To serve notices to deal with ruinous and dilapidated buildings and neglected sites.
379	Sanitary Accommodation <i>Section 64, Building Act 1984</i>	To serve notices to require works to buildings having insufficient sanitary accommodation or sanitary accommodation which is prejudicial to health or a nuisance and which requires reconstruction.
380	Sanitary Accommodation <i>Section 45, Public Health Act 1936</i>	To serve notices to require works to sanitary accommodation which is prejudicial to health or a nuisance but which is capable of repair.

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| 381 | Placards and posters<br><i>Town and Country Planning Act (1990) – Sections 220 and 225</i>   | In consultation with the Chief Legal Officer, to issue notices to remove a placard or poster to persons who displayed, or caused it to be displayed, in contravention of regulations made under Section 220 of the Town and Country Planning Act 1990 ('the Act'), and if such notices are not complied with, to recover from the said person the costs reasonably incurred by the authority to remove the placard or poster pursuant to Section 225 of the Act. |
| 382 | Waste on vacant sites<br><i>Section 34, Public Health Act 1961</i>                           | To arrange the removal of accumulations of refuse from vacant sites which are seriously detrimental to the amenities of the neighbourhood.   |
| 383 | Disposal of Waste on open land<br><i>Section 6 of the Refuse Disposal (Amenity) Act 1978</i> | To serve notices in relevant cases to deal with the proposed removal by the Council of waste abandoned on any land in the open air in this Borough.  |

### **Private Sector Housing**

**HEH**

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| 384 | Enforcement<br><i>Housing Act 1985, Housing Act 1996, Housing Act 2004</i>                   | To exercise the Council's powers under the relevant sections of the Acts, subordinate and other legislation to effect the enforcement provisions of the Acts, including those for service of notices, carrying out works in default, prosecution, fitness for number of occupants, overcrowding, recovery of costs and assessment of Housing under the Housing Health and Safety Rating system. |
| 385 | Licensing Housing in Multiple Occupation<br><i>Part 2 and Part 3 of the Housing Act 2004</i> | To exercise Council's powers to licence Houses in Multiple Occupation, including the setting of charges, imposing conditions and powers to extend the scheme to other residential properties.   |
| 386 | Management Orders for Housing Multiple Occupation<br><i>Part 4 of the Housing Act 2004</i>   | To exercise the council's powers to make interim and final management orders in respect of Houses on Multiple Occupation, other residential accommodation and empty dwellings.  |
| 387 | Works to defective premises<br><i>Section 76, Building Act 1984</i>                          | To serve notices requiring works to defective premises and, in the event of default, carrying out of those works and recovery of the costs incurred.  |
| 388 | Protection from Eviction<br><i>Protection from Eviction Act 1977 (as amended)</i>            | To investigate alleged breaches of the Act by way of alleged harassment and unlawful eviction.  |

- 389 Private Sector Housing Renewal Assistance Policy
- Where variations on policy arise but they have similarity to previous cases, or where minor changes to the policy are required, to approve such changes, after consultation with Cabinet Member for Housing and Homelessness, the Chief Legal Officer, and the s151 Officer.

## **Air Quality**

**HEH**

- 390 Chimneys  
*Section 15, Clean Air Act 1993*
- To approve or refuse applications relating to the height of a new chimney or existing chimney serving a new furnace.
- 391 Control of emissions  
*Part I of the Environmental Protection Act 1990*
- To exercise all the powers conferred on the Council in respect of the provision for controlling emissions which are harmful to the environment and requiring the owners of industrial plant at which certain specified industrial processes are carried on to apply to the local authority for authorisation to carry out that process.

## **Dangerous Structures**

**HEH**

- 392 Demolition Orders  
*Section 270, Housing Act 1985*
- To serve notices on the occupier(s) of a building to which a demolition order relates requiring that person(s) to quit the building.

## **Pest Control**

**HEH**

- 393 Damage by Pests - Rats and Mice  
*Section 4, Prevention of Damage by Pests Act 1949*
- To serve notices requiring steps to be taken to destroy rats or mice on land.
- 394 Damage by Pests - Rats and Mice  
*Section 6, Prevention of Damage by Pests Act 1949*
- To carry out of works to destroy rats and mice on premises in the occupation of different persons and recovery of costs.
- 395 Damage by Pests - Recovery of costs  
*Section 5, Prevention of Damage by Pests Act 1949*
- In default, to carry out works specified in notice served under Section 4 of the Act and to recover costs.

## **Renovation Grants**

**HEH**

- 396 Breach of grant conditions - No discretion
- Where a breach of grant conditions has occurred, and where there is no discretion in the amount of money to be reclaimed, to reclaim the required amount as required by the appropriate statute.



- 397 Breach of grant conditions - discretion  
Where there has been a breach of grant conditions, and where the Council has discretion whether or not to require repayment of the grant either in full or in part, to use his discretion, following consultation with the relevant Cabinet Member, to decide whether repayment of grant is required.
- 398 Home Repair Assistance Grants  
To approve applications for Home Repair Assistance Grants in respect of minor works to dwellings, including thermal insulation, in accordance with such regulations as may from time to time be made by the Secretary of State and within the current policy of the Council.
- 399 Private Sector Renovation Grant  
In consultation with the Corporate Director of Finance and Assets (s151 Officer) and the relevant Cabinet Member, to make further changes to the award policy for Renovation Grant, as appropriate, to ensure best use of available funds within the Council's current Housing Strategy.
- 400 Re-determination of grant expenditure  
To re-determine the estimated expense of carrying out the eligible works for any type of grant mentioned in this section, on being satisfied that the works of improvement or repair in respect of which the grant was sought cannot be or could not have been carried out on the basis of the original estimated expense due to circumstances beyond the control of the applicant, or on being satisfied that the works cannot be or could not have been carried out without the applicant carrying out additional works unforeseen at the time of the application for a grant.
- 401 Reinstatement Grants  
To approve Reinstatement Grants in respect of Defective Houses where a person has established eligibility for assistance, including the determination or re-determination of the eligible expense, up to 90% of the maximum limit or 100% in cases of hardship, as may be defined from time to time by the Council or the appropriate forum.
- 402 Refusal of applications for improvement grants  
To refuse applications for all types of improvement grants which either do not meet the requirements of the legislation or which fall outside the scope of the Council's current award policy.

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| 403 | Renovation Grants, Common Parts Grants, Disabled Facilities Grants and Houses in Multiple Occupation Grants | To approve applications, including the determination of the eligible expense and amount of grant, for Renovation Grants, Common Parts Grants, Disabled Facilities Grants and Houses in Multiple Occupation Grants and the approval of any such grant, including grants for the adaptation and use of dwellings for disabled persons, this to include situations where the works were commenced before approval was given and where in the opinion of the officer concerned there were good reasons for the works having been commenced before approval was given. |
| 404 | Disabled Facilities Grants  | To approve additional Discretionary Disabled Facilities Grants for mandatory works only in situations where these cannot reasonably be carried out at or below the maximum amount currently specified for Mandatory Disabled Facilities Grants.   |

## Food Safety

**HEH**

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| 405 | Food Safety - Enforcement<br><i>Food Safety Act 1990</i>   | To request the Chief Legal Officer to commence legal proceedings following breaches of the Food Safety Act 1990 and associated regulations.   |
| 406 | Food Safety<br><i>Public Health (Control of Disease) Act 1984</i><br><i>Food Safety Act 1990</i><br><i>Food and Environment Protection Act 1985 and associated regulations</i> | With such officers as he may nominate, to enforce, on behalf of the Council, the provisions of the Acts.  |
| 407 | Food Safety - Enforcement<br><i>Food Safety Act 1990</i>   | With such officers as he/she may nominate, to enforce the provisions of the Food Safety Act 1990 (and amendments to this legislation plus subordinate and other legislation) in relation to inspection and control of unsound food and matters relating to food hygiene, food sampling analysis and food safety, service of notices, prosecution and seizure of suspected food. |
| 408 | Food Analysis and Examination<br><i>Food Safety Act 1990</i>   | To appoint one or more persons to act as Public Analysts and Food Examiners for the purposes of the Act and to appoint a Deputy to act during any vacancy, absence or incapacity in the office of Public Analyst or Food Examiner.  |

- 410 Food Safety  
*Slaughter of Poultry Act 1967*  
*Slaughter Houses Act 1974* With such officers as he/she may nominate, to enforce, on behalf of the Council, the provisions of the Acts and subordinate legislation.

## High Hedges

HEH

- 411 High Hedges To set the fees for investigating complaints of high hedges.
- 412 High Hedges  
*Part 8 of the Anti-Social Behaviour Act 2003* To investigate complaints about high hedges upon payment of the proper fee.  
To enter land to investigate complaints about high hedges.  
To serve notices requiring the remediation of high hedges.  
To exercise the powers of the Council in relation to the enforcement of notices issued under Part 8 of the Ant Social Behaviour Act 2003.

## Health and Safety

HEH

- 413 Health and Safety at Work  
*Health and Safety at Work etc. Act 1974* To exercise the functions of the Council in relation to the Health and Safety at Work etc. Act 1974.  
*(exercised concurrently with the Head of Internal Audit)*
- 414 Sanitary Conveniences in Workplaces  
*Section 65, Building Act 1984* To serve notices requiring the provision of sanitary conveniences in workplaces. *(exercised concurrently with the Head of Internal Audit)*
- 415 Sanitary Conveniences in places serving food  
*Local Government Miscellaneous Provisions Act 1976* To require the provision of sanitary conveniences for the public in places serving food. *(exercised concurrently with the Director of Strategic Development and Growth and Growth)*

## Community Protection

HEH

- 416 Community Protection Notices  
*Chapter 1, Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014* In consultation with the Chief Legal Officer, to serve Community Protection Notices in accordance with Chapter 1, Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 and in the event of a breach serve fixed penalty notices.  
*(Exercised concurrently with the Director of Housing and the Director of Strategic Development and Growth.)*

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| 425 | Closure Notices and Closure Orders<br><i>Chapter 3, Part 4 of the Anti-Social behaviour, Crime and Policing Act 2014</i> | In consultation with the Chief Legal Officer, to issue Closure Notices and apply for Closure Orders. (Exercised concurrently with the Director of Housing.) |
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## **General (Head of Environmental Health)**

**HEH**

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| 420 | Entry onto and inspection of land and premises   | To enter and inspect land and premises in accordance with the powers specified in Statutes, Orders and Regulations falling within their purview.   |
| 421 | Entry onto and inspection of land and premises<br><i>Health and Safety at Work etc. Act 1974</i> | Where the enabling statute permits, to authorise persons not appointed by this Council to enter upon land or premises in order to carry out their respective duties and in particular, but without prejudice to the generality of this authority, to authorise the Chief Fire Officer and officers of the Fire Brigade to enter upon land or premises for the purpose of examination of means of escape in case of fire in accordance with the Housing Act 1985 and appropriate licensing functions ( <i>exercised concurrently with the Director of Strategic Development and Growth</i> ). |
| 422 | Petroleum Licensing  | To exercise the functions of the Council with regard to Petroleum Licensing.   |
| 423 | Requisitions for information<br><i>Local Government (Miscellaneous Provisions) Act 1976</i>      | To serve requisitions for information as to ownership/occupation on all persons having an interest in premises. ( <i>exercised concurrently with the Director of Strategic Development and Growth</i> )  |

## **Private Rented Sector Housing Regulation**

**HEH**

- |     |  |  |
|-----|--|--|
| 429 | Enforce regulations under the Housing and Planning Act 2016<br><i>Housing and Planning Act 2016, Part 2: Rogue Landlords and Property Agents in England, and Part 5: Housing, Estate Agents and Rent Charges: Other Changes, including appropriate Schedules to the Act.</i> | To exercise the Council's enforcement and other powers under the Parts of the Act, and any subordinate, amending or replacing legislation relating to standards and safety in the private rented sector. |
|-----|--|--|

# Remaining Covid-19 Related Delegations

## Director of Strategic Development and Growth

***Subject/  
Enabling Statute***

***Authority***

C20	To enforce regulations made by the Secretary of State in response to the Coronavirus pandemic pursuant to section 13 (Control of certain diseases), or Part IIA (Public Health Protection), or both, of the Public Health (Control of Disease) Act 1984	To authorise officers and to act as “authorised officers” and to take any action including enforcement action, as may be authorised by health protection Regulations made by the Secretary of State, from time to time, in response to the Coronavirus pandemic.  (added 9 <sup>th</sup> November 2020) (amended 12 <sup>th</sup> January 2022)
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## Chief Legal Officer

C21	Prosecution for breaches of the requirements of regulations made by the Secretary of State in response to the Coronavirus pandemic pursuant to section 13 (Control of certain diseases), or Part IIA (Public Health Protection), or both, of the Public Health (Control of Disease) Act 1984	To commence legal proceedings as may be authorised by health protection Regulations made by the Secretary of State, from time to time, in response to the Coronavirus pandemic.  (added 9 <sup>th</sup> November 2020) (amended 12 <sup>th</sup> January 2022)
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## Director of Public Health

C22	To exercise Coronavirus Covid-19 Additional Delegations concurrently with the Director of Strategic Development and Growth	To exercise provision C20 of the Coronavirus Covid-19 Additional Delegations concurrently with the Director of Strategic Development and Growth.  (added 12 <sup>th</sup> January 2022)
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# DESIGNATIONS OF "PROPER OFFICERS"

Subject to the provisions of Standing Orders, Financial Regulations and the Scheme of Delegations:-

## CHIEF EXECUTIVE

The Chief Executive, and in the event of his/her being absent or otherwise unable to act, the Officers referred to in Article 14.07 of this Constitution, is hereby appointed the proper officer in relation to:-

- (a) any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972, or in any instrument made before 26th October, 1972 or in any document made before 1st April, 1974 to the Clerk of a Council or the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the proper officer of the Council;
- (b) Any other miscellaneous proper or statutory officer functions not otherwise delegated by the Council;
- (c) the following provisions:-

### Local Government and Housing Act 1989

#### Section of Act Proper Officer's functions

Section 4    Head of Paid Service

### Local Government Act 1972

#### Section of Act    Proper Officer's functions

Section 137(A)    Receipt of a written statement or Annual Report or Accounts deposited under Section 137(A) where the Council has provided financial assistance to any organisation, body or fund

### Representation of the People Act 1983

#### Section of Act    Proper Officer's functions

Section 8    Electoral Registration Officer for any constituency or part of a constituency coterminous with or situated in the Borough of Swindon

Section 82(4) A person before whom declarations may be made as to election expenses

## **CHIEF LEGAL OFFICER**

The Chief Legal Officer is hereby appointed the proper officer in relation to the following provisions:-

### **Local Government Act 1972**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
13(3)	To act as one of the Parish trustees in parishes having no separate Parish Council.
83(1) to (4)	Witness and receipt of declarations of acceptance of office.
84	Receipt of declaration of resignation of office.
88(2)	Convening of meeting of Council to fill casual vacancy in the office of Mayor.
Schedule 12 Part 1 para. 4(2)(b)	Signature of summonses to Council Meetings.
para. 4(3)	Receipt of notices regarding address to which s summons to meetings is to be sent.
Schedule 14	Certification of resolutions to adopt certain Acts under para. 25(7) para. 25 of Schedule 14.
89(1)(b)	Receipt of notice of casual vacancy from 2 local government electors.
100B(2)	Circulation of reports and agendas
100B(7)(c)	Supply of papers to the press
Section 100C(2)	Summaries of minutes
100F(2)	Papers not open to members
Section 101	All matters in relation to the discharge of functions including by another local authority

210(6) and (7)	Charity functions of holders of office with existing authorities transferred to holders of equivalent office with new authorities or if there is no such office, to proper officers.
225(1)	Deposit of documents
229(5)	Certification of photographic copies of documents
234(1) and (2)	Authentication of documents (including the authentication of those documents for which another officer has also been appointed the Proper Officer)
236(9)	To send copies of byelaws for Parish records
236(10)	To send copies of byelaws to the County Council
238	Certification of byelaws
248	Keeping of Roll of Freemen.
Schedule 16 Para. 28	Receipt on deposit of lists of protected buildings (Section 54(4) of the Town and Country Planning Act, 1971)

#### **Local Government Act 1974**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
Section 30	Receipt of Ombudsman Reports (In the event of his/her being absent or otherwise unable to act, the Chief Executive is appointed Proper Officer)

#### **Local Government (Miscellaneous Provisions) Act, 1976**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
Section 41	Authentication of copies of minutes etc. for production in Court

#### **Local Government and Housing Act 1989**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
Section 5	Monitoring Officer
Section 15	Calculation of Political Balance on Committees

#### **Regulation of Investigatory Powers Act 2000**



Section of Act

Proper Officer's functions

Sections 28 and 29

To maintain and keep under review a central register of authorisations issued under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.

**Local Government Act 2000**

Section of Act

Proper Officer's functions

Section 52

Receipt of written undertaking from Members to observe the Authority's Code of Conduct

Section 81

Establish and maintain a Register of Interests

## **DIRECTOR FOR PEOPLE, CUSTOMER AND ORGANISATIONAL RESILIENCE**

**Marriage Act 1949**

Section of Act

Proper Officer's functions

Sections 9, 13 & 20

Registration of Births, Deaths and Marriage

**Registration Service Act 1953**

Section of Act

Proper Officer's functions

Sections 6(1), 6(3)  
10(1) and 14(1)

Dealings with registration officers

**Cremation (England and Wales) Regulations 2008**

Section of Act

Proper Officer's functions

Part 7 Registrar to the Crematorium

## **HEAD OF ELECTIONS AND DEMOCRACY**

The Head of Elections and Democracy is hereby appointed the proper officer in relation to the following provisions:

**The Representation of the People Act 1983**

<u>Section of Act</u>	<u>Proper Officer's Functions</u>
Sections 52(2) and 52(3)	Deputy to Electoral Registration Officer

## **COMMITTEE AND MEMBER SERVICES MANAGER**

### **Local Government Act 2000**

<u>Section of Act</u>	<u>Proper Officer's Functions</u>
Section 9FB	Statutory Scrutiny Officer

## **CORPORATE DIRECTOR OF FINANCE AND ASSETS (S151 OFFICER)**

The Corporate Director of Finance and Assets (s151 Officer) is hereby appointed the proper officer in relation to:-

- (a) any reference in any enactment passed before or during the 1971 - 72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October, 1972 or in any document made before 1st April, 1974 to the Treasurer or Chief Financial Officer of a Council or of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the proper officer of the Council; and
- (b) the following provisions:

### **Local Government Act 1972**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
146(1)(a) and (b)	Declarations and certificates with regard to securities.
151	Proper administration of the Council's financial affairs.

### **Local Government Finance Act 1992**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
Section 38(2)	Giving notice in the press of the amounts of Council Tax that have been set; and

the maintenance of the Loans Register and signing of certificates issued under the provisions of the Local Authority (Stocks and Bonds) Regulations, 1974.

## DIRECTOR OF PUBLIC HEALTH

The Director of Public Health is hereby appointed the Proper Officer in relation to:

- (a) any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972, or in any instrument made before 26th October, 1972, or in any document made before 1st April, 1974, to the Public Health Inspector or Sanitary Inspector of a Council or of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the proper officer of the Council;
- (b) the following provisions, except so far as any part of any particular duty included therein falls to be dealt with by the Registered Medical Practitioner appointed by the Council as the proper officer for any such part:-

### **Public Health Act, 1936**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
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284	Notices, etc., to be signed on behalf of Borough Council.
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### **Public Health (Control of Disease) Act 1984**

All Proper Officer functions

### **Public Health Act, 1961**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
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37	Disinfection or destruction of verminous article.
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### **Housing Act, 2004**

<u>Section of Act</u>	<u>Proper Officer's functions</u>
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Part 1	Enforcement of Housing Standards
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## **Local Government Act 1972**

### Section of Act

### Proper Officer's functions

Section 101

To enter into a Service Level Agreement on behalf of the Council with another appropriate local weights and measures authority to enable this Council to meet and discharge its metrological functions under Sections 4 and 5 of Weights and Measures Act 1985 relating to Local and Working Standards respectively on terms to be finalised in consultation with the Director (Law and Democratic Services)

## **DIRECTOR OF STRATEGIC DEVELOPMENT AND GROWTH**

The Director of Strategic Development and Growth is hereby appointed the proper officer in relation to the following provisions:

Building Act, 1984

### Section of Act

### Proper Officer's functions

78

Giving of notice, and taking such steps as are necessary to remove danger, in respect of dangerous building or structure.

## **Local Government Act 1972**

### Section of Act

### Proper Officer's functions

Section 101

To enter into a Service Level Agreement on behalf of the Council with another appropriate local weights and measures authority to enable this Council to meet and discharge its metrological functions under Sections 4 and 5 of Weights and Measures Act 1985 relating to Local and Working Standards respectively on terms to be finalised in consultation with the Chief Legal Officer

**Part 9**

**Extract From Statutory Provisions  
On Procedural Matters**

## LOCAL GOVERNMENT ACT 1972

Appendix

### 1. MEETINGS OF THE COUNCIL

L.G.A.72  
Sch.12  
Part I  
Paras. 1-4  
=====  
S.O.1

- 1.-(1) A principal council shall in every year hold an annual meeting.
- (2) The annual meeting of a principal council shall be held
  - (a) in a year of ordinary elections of councillors to the council, on the eighth day after the day of retirement of councillors or such other day within the twenty-one days immediately following the day of retirement as the council may fix;
  - (b) in any other year, on such day in the month of March, April or May as the council may fix.
- (3) ....
- (4) An annual meeting of a principal council shall be held at such hour as the council may fix, or if no hour is so fixed at twelve noon.
- 2.-(1) A principal council may in every year hold, in addition to the annual meeting, such other meetings as they may determine.
- (2) Those other meetings shall be held at such hour and on such days as the council may determine.
- 3.-(1) An extraordinary meeting of a principal council may be called at any time by the chairman of the council.
- (2) If the chairman refuses to call an extraordinary meeting of a principal council after a requisition for that purpose, signed, by five members of the council, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then, any five members of the council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the council.
- 4.-(1) Meetings of a principal council shall be held at such place, either within or without their area, as they may direct.
- (2) Three clear days at least before a meeting of a principal council -
  - (a) notice of the time and place of the intended meeting shall be published at the council's offices, and where the meeting is called by members of the council the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and
  - (b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the proper officer of the council, shall, subject to sub-paragraph (3) below, be left at or sent by post to the usual place of residence of every member of the council.
- (3) If a member of a principal council gives notice in writing to the proper officer of the council that he desires summonses to attend meetings of the council to be sent to him at some address specified in the notice other than his place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.
- (4) Want of service of a summons on any member of a principal council shall not affect the validity of a meeting of the council.

## **2. CHAIRMAN OF MEETING**

L.G.A.72  
Sch.12  
Part I  
Para. 5

5.-(1) At a meeting of a principal council the chairman, if present, shall preside.

(2) If the chairman is absent from a meeting of a principal council, then -

(a) the vice-chairman of the council, if present, shall preside;

(3) If -

(a) in the case of a principal council, both the chairman and vice-chairman of the council are absent from a meeting of the council; another member of the council chosen by the members of the council present shall preside.

=====  
S.O.2

## **3. QUORUM - COUNCIL MEETINGS**

L.G.A.72  
Sch 12  
Part I  
Para.6

6.- Subject to paragraph 45 below, no business shall be transacted at a meeting of a principal council unless at least one quarter of the whole number of members of the council are present.

=====  
S.O.3

## **4. MINUTES**

L.G.A.72  
Sch. 12  
Part VI  
Para.41  
as  
amended

41.-(1) Minutes of the proceedings of a meeting of a local authority shall, subject to sub-paragraph (2) below, be drawn up and entered in a book kept for that purpose and shall be signed at the same or next suitable meeting of the authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) Notwithstanding anything in any enactment or rule of law to the contrary, the minutes of the proceedings of meetings of a local authority may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next suitable meeting of the authority, by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a local authority a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified.

(4) For the purposes of sub-paragraphs (1) and (2) above the next suitable meeting of a local authority is their next following meeting or, where standing orders made by the authority in accordance with regulations under Section 20 of the Local Government and Housing Act 1989 provide for another meeting of the authority to be regarded as suitable, either the next following meeting or that other meeting.

=====  
S.O.5

## **5. ADMISSION OF THE PUBLIC AND PRESS TO MEETINGS**

(4) A principal Council may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information.

(5) A resolution under Sub-Section (4) above shall

- (a) identify the proceedings, or the part of the proceedings, to which it applies, and
- (b) state the description, in terms of Schedule 12A to this Act, of the exempt information giving rise to the exclusion of the public, and where such a resolution is passed this Section does not require the meeting to be open to the public during proceedings to which the resolution applies.

## **6. DISTURBANCE BY MEMBERS OF THE PUBLIC**

(8) This section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

## **7. VOTING**

39.-(1) Subject to the provisions of any enactment (including any enactment in this Act) all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

(2) Subject to those provisions in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

## **8. INSPECTION OF DOCUMENTS**

228.-(1) The minutes of proceedings of a parish council shall be open to the inspection of any local government elector for the area of the council and any such local government elector may make a copy of or extract from the minutes.

(2) A local government elector for the area of a local authority may inspect and make a copy of or extract from an order for the payment of money made by the local authority.

(3) The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts.

(4) ...

(5) Subject to any provisions to the contrary in any other enactment or instrument, a person interested in any document deposited as mentioned in section 225 above may, at all reasonable hours, inspect and make copies thereof or extracts therefrom on payment to the person having custody thereof of the sum of IOp for every such inspection, and of the further sum of IOp for every hour during which such inspection continues after the first hour.

(6) A document directed by this section to be open to inspection shall be so open at all reasonable hours, and, except where otherwise expressly provided, without payment.

(7) If a person having the custody of any such document -

- (a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract,
- (b) refuses to give copies or extracts to any person entitled to obtain copies or extracts, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale#.

# Level 1 is currently £200

IOOF.-(l) Any document which is in the possession or under the control of a principal council and contains material relating to any business to be transacted at a meeting of the council



or a committee or sub-committee of the council shall, subject to sub-section (2) below, be open to inspection by any member of the Council.

(2) Where it appears to the proper officer that a document discloses exempt information of a description for the time being falling within any of paragraphs 1 to 6, 9, 11, 12 and 14 of Part I of Schedule 12A to this Act, subsection (1) above does not require the document to be open to inspection.

(3) The Secretary of State may by order amend subsection (2) above -

(a) by adding to the descriptions of exempt information to which that subsection refers for the time being; or

(b) by removing any description of exempt information to which it refers for the time being.

(4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The rights conferred by this section on a member of a principal council are in addition to any other rights he may have apart from this section.

## **9. APPOINTMENT OF COMMITTEES**

101.-(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions -

(a) by a committee, a sub-committee or an officer of the authority; or

(b) by any other local authority.

(2) Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority and where by virtue of this section any functions of a local authority may be discharged by a sub-committee of the authority, then, unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.

(3) Where arrangements are in force under this section for the discharge of any functions of a local authority by another local authority, then, subject to the terms of the arrangements, that other authority may arrange for the discharge of those functions by a committee, sub-committee or officer of theirs and sub-section (2) above shall apply in relation to those functions as it applies in relation to the functions of that other authority.

(4) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.

(5) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so, -

(a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities; and

(b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by

whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(6) A local authority's functions with respect to levying, or issuing a precept for, a rate shall be discharged only by the authority.

102.-(1) For the purpose of discharging any functions in pursuance of arrangements made under section 101 above or Section 53 of the Children Act 1989

(a) a local authority may appoint a committee of the authority; or

(b) two or more local authorities may appoint a joint committee of those authorities; or

(c) any such committee may appoint one or more sub-committees.

(2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority shall be fixed by the appointing authority or authorities, or, in the case of a sub-committee, by the appointing committee.

(3) A committee appointed under subsection (1) above, other than a committee for regulating and controlling the finance of the local authority or of their area, may, subject to section 104 below, include persons who are not members of the appointing authority or authorities, or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee.

(4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities on any matter relating to the discharge of their functions, and any such committee -

(a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and

(b) may appoint one or more sub-committees to advise the committee with respect to any such matter.

(5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall upon ceasing to be a member of that authority also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

## 10. STANDING ORDERS, ETC., OF COMMITTEES

L.G.A.72  
S.106  
=====  
Article 11

106.- Standing Orders may be made as respects any committee of a local authority by that authority or as respects a joint committee of two or more local authorities, whether appointed or established under this Part of this Act or any other enactment, by those authorities with respect to the quorum, proceedings and place of meeting of the committee or joint committee (including any sub-committee) but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee, joint committee or sub-committee may determine.

## 11. OUTSTANDING COUNCIL TAX DUE FROM COUNCILLORS

LGFA 92  
S.106

106.-(1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), of at that time -

- (a) a sum falling within paragraph 1(1)(a) of Schedule 4 to this Act;
- or
- (b) a sum falling within paragraph 1(1)(a), (b), (d) or (ee) of Schedule 4 to the 1988 Act (corresponding provisions with respect of community charges),

has become payable by him and has remained unpaid for at least two months.

(2) Subject to subsection (5) below, if a member to whom this section applies is present at a meeting of the authority or committee at which any of the following matters is the subject of consideration, namely -

- (a) any calculation required by Chapter III, IV, or V of Part I of this Act;
- (b) any recommendation, resolution or other decision which might affect the making of any such calculation; or
- (c) the exercise of any functions under Schedule 2 to 4 to this Act or Schedules 2 to 4 to the 1988 Act (corresponding provisions with respect to community charges),

he shall at the meeting and as soon as practicable after its commencement disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.

(3) If a person fails to comply with subsection (2) above, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale#, unless he proves that he did not know -

- (a) that this section applied to him at the time of the meeting; or
- (b) that the matter in question was the subject of consideration at the meeting.

# Level 3 is currently £1,000.

(4) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

(5) Subsections (1) to (3) of section 97 of the Local Government Act 1972 (removal of exclusion of liability etc.) shall apply in relation to this section and any disability imposed by it as they apply in relation to section 94 of that Act and any disability imposed by that section.

(6) In this section "local authority" has the same meaning as in sections 94 and 97 of the Local Government Act 1972.

## 12. INTEREST OF OFFICERS IN CONTRACTS

L.G.A. 72  
S.117  
=====  
S.O.49

117.-(1) If it comes to the knowledge of an officer employed whether under this Act or any other enactment, by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein. For the purposes of this section an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

(2) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

(3) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale#.

[NB # Level 4 is currently £2500]

(4) References in this section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

### **13. CONTRACTS OF LOCAL AUTHORITIES**

135.-(1) A local authority may make standing orders with respect to the making of contracts by them or on their behalf.

(2) A local authority shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works.

(3) Standing Orders made by a local authority with respect to contracts for the supply of goods or materials or for the execution of works shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited, but may exempt from any such provision contracts for a price below that specified in standing orders and may authorise the authority to exempt any contract from any such provision when the authority are satisfied that the exemption is justified by special circumstances.

(4) A person entering into a contract with a local authority shall not be bound to inquire whether the standing orders of the authority which apply to the contract have been complied with, and non-compliance with such orders shall not invalidate any contract entered into by or on behalf of the authority.