

# ANNUAL COUNCIL MEETING

Wednesday, 20th May, 2015  
at 2.00 pm – Council Chamber,  
Civic Centre

## MEMBERS' ROOM DOCUMENTS

This meeting is open to the public

### Members

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## MEMBERS' ROOM DOCUMENTS

Agendas and papers are now available via the Council's website

**7 ANNUAL REVIEW OF THE CONSTITUTION**  
(Pages 1 - 330)

Appendices to the report of the Head of Legal and Democratic Services reviewing and updating the Council's Constitution, attached.

TUESDAY, 12 MAY 2015

HEAD OF LEGAL AND DEMOCRATIC SERVICES



## PART 2: ARTICLES OF CONSTITUTION

### Article 1 The Constitution

#### 1.01 Powers of the Council

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

#### 1.02 The Constitution

This Constitution, all its contents (Parts 1 – 11) and any schedules and/or appendices is the Constitution of Southampton City 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 and participation 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. demonstrate that the Council will operate and approach all issues with responsibility and integrity;
6. create a powerful and effective means of holding decision-makers to public account;
7. ensure that no one will review or scrutinise a decision in which they were directly involved;
8. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
9. provide a means of improving the delivery of services to the community; and
10. enable the Council to design and operate an organisational and management structure that ensures that Citizens receive Best Value services

with the overall aim that the purpose of the Council is to improve the quality of life of our Citizens.

#### 1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## **Article 2 Members of the Council**

### **2.01 Composition and eligibility**

- a. **Composition.** The Council will comprise 48 Members, otherwise called Councillors. Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- b. **Eligibility.** Only registered voters of the City or those living or working there will be eligible to hold the office of Councillor.

### **2.02 Election and terms of Councillors**

**Election and terms.** The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year beginning in 2003, except that in 2013 and every fourth year after there will be no regular election. The terms of office of Councillors will normally 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. contribute to the good governance of the areas and actively encourage community participation and citizen involvement in decision-making;
- iii. effectively represent the interests of their Ward and of individual constituents;
- iv. respond to constituents' enquiries and representations fairly and impartially;
- v. maintain the highest standards of conduct and ethics;
- vi. be available to represent the Council on other bodies; and
- vii. be available to serve on other bodies.

#### b. **Rights and duties**

- i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- ii. Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

- iii. For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### **2.04 Conduct**

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

#### **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

## **Article 3 Citizens and the Council**

### **3.01 Citizens' rights**

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet when Key Decisions are being considered;
  - (iii) find out from the Forward Plan what Key Decisions will be taken by the Executive and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council meetings by making deputations and asking Councillors questions in accordance with the appropriate procedures and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme; or
  - (iii) the Council about a breach of the Councillor's Code of Conduct.

### **3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officer and must not willfully 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 (~~S<sub>ection</sub> 1(2)~~ Public Libraries and Museums Act 1964)
- Sustainable Community Strategy (~~S<sub>ection</sub> 4~~ Local Government Act 2000 ~~Issue No.12 (October 2014)~~)
- Local Transport Plan (~~S<sub>ection</sub> 108(3)~~ Transport Act 2000)
- Local Development Framework and Local Area Action Plans (~~S<sub>ection</sub> 15~~ Planning and Compulsory Purchase Act 2004)
- ~~Licensing Authority Policy Statements (Section 349 Gambling Act 2005)~~
- Crime & Disorder Reduction Strategy (~~S<sub>ections</sub> 55~~ and 6 Crime and Disorder Act 1998)
- Youth Justice Plan (~~S<sub>ection</sub> 40~~ Crime and Disorder Act 1998)
- Statement of Pay Policy (Localism Act 2011);
- ~~Statement of Gambling Policy (Gambling Act 2005)~~
- Health and Well Being Strategy (S.116A Local Government and Public Involvement in Health Act 2007)

(b) **Budget.** For the purposes of the Constitution, the Budget shall be defined as meaning the process whereby the Executive submits to the Full Council for its consideration in relation to the following financial year -

- i. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- ii. estimates of other amounts to be used for the purposes of such a calculation;
- iii. estimates of such a calculation; or
- iv. amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

Note: In connection with the discharge of the function of formulating a plan or strategy for the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, these functions shall not be the sole responsibility of the authority's Executive.

(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 will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of 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 which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) the election of the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the City;
- (i) confirming the appointment of the Head of Paid Service;
- (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 set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than a Committee or Sub-Committee of the Council or the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are four types of Council meeting:

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

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

#### **4.04 Responsibility for functions**

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



## **Article 5 Chairing the Council**

### **5.01 Role and function of the Mayor and Sheriff (Chair and Vice-Chair of the Council)**

The Mayor (Chair of Council) and in his/her absence, the Sheriff (Vice-Chair) will have the following roles and functions:

- (a) Ceremonial role
- (b) Chairing the Council meeting

### **5.02 The Mayor**

The position of Mayor was established by virtue of a Royal Charter and will be elected by the Council annually. The Council wholeheartedly supports the office of Mayor. The Mayor will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution, having taken advice from the Head of Legal and Democratic Services when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive and committee chairs to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and s/he determines appropriate.

### **5.03 The Sheriff**

The position of Sheriff will be elected by the Council annually. The Council wholeheartedly supports the office of Sheriff. The Sheriff will have the following responsibilities:

1. to preside at Council Meetings in the absence of the Mayor;
2. to preside at Court Leet; and
3. to deputise generally for the Mayor in such circumstances the Mayor may propose.

### **5.04 Civic and Ceremonial Protocol**

The Civic and Ceremonial Protocol contained in Part 5 of this Constitution, sets out in more detail the roles and responsibilities of the Mayor and Sheriff.

### **5.05** The Head of Legal and Democratic Services shall convene a meeting of the Group Leaders immediately following the elections to discuss the election of Mayor and Sheriff for the next municipal year.

## **Article 6 Overview and Scrutiny Committees**

### **6.01 Terms of reference**

The Council will appoint an Overview and Scrutiny Management Committee the functions of which are set out in Section 3 of Part 3 of this Constitution. This Committee will have the power to appoint Standing Overview and Scrutiny Panels (Sub-Committees) and other Panels as may be necessary from time to time to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. In the event of any matter falling within the scope of more than one Panel or where it appears to fall outside of the Terms of Reference of any of the Panels, the determination as to the appropriate Panel for dealing with such matters rests with the Overview and Scrutiny Management Committee.

### **6.02 General role**

The terms of reference for the Overview and Scrutiny Panels are:

- i. To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive, including the power to recommend that a relevant decision be reconsidered by the person who made it [s 21(2)(a) of the 2000 Act]; or
- ii. For a Standing Scrutiny Panel to arrange for full Council to decide whether to recommend that the relevant decision be reconsidered by the person who made it; [s 21(3)] or
- iii. To make reports or recommendations to the Council or the Executive with respect to the discharge of any functions which are the responsibility of the Executive [section 21(2)(b)]; or
- iv. To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive; [section 21(2)(c)] or
- v. To make reports or recommendations to the Council or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive; [section 21(2)(d)] or
- vi. To make reports or recommendations to the Council or the Executive on matters which affect the City of Southampton or its inhabitants; [section 21(2)(e)] or
- vii. To conduct or contribute to the undertaking of Best Value Reviews under Section 5 of the Local Government Act 1999 [section 21(5) of the 2000 Act].

The Overview and Scrutiny Panels will not scrutinise decisions made by specialist committees i.e decisions made in respect of development control, licensing, consents and other decisions where an appeals procedure already exists.

### **6.03 Proceedings of Overview and Scrutiny Management Committee and its Panels**

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

## **Article 7 The Executive**

### **LEADER WITH CABINET**

#### **7.01 Role**

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

#### **7.02 Form and composition**

The Executive will consist of the Leader together with at least two, but not more than nine Councillors (known as "Cabinet Members") appointed to the Executive by the Leader.

#### **7.03 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council annually at the Annual Meeting (or any other meeting in the event of a vacancy). The Leader will hold office until:

- (a) s/he resigns from the office; or
- (b) s/he is no longer a Councillor; or
- (c) until the next Annual Meeting of the Council; or
- (d) s/he is removed from office by resolution of the Council

#### **7.04 Election of the Leader**

Council Procedure Rule 17.1 will govern the procedure for the election of the Leader.

#### **7.05 Cabinet Members**

Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) until the next Annual Meeting of the Council; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Head of Legal and Democratic Services. The removal will take effect two working days after receipt of the notice by the Head of Legal and Democratic Services.

#### **7.06 Proceedings of the Executive**

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

### **7.07 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out who is responsible for the exercise of particular Executive functions.

**Article 8**  
**Regulatory and other committees**

**8.01 Regulatory and other committees**

The Council will appoint the committees set out in Section 3 of Part 3 of this Constitution to discharge the functions described in that table.

## **Article 9 Governance Committee**

### **9.01 Governance Committee**

The Council will establish a Governance Committee to carry out functions delegated to it by Council in accordance with the Local Government Acts 1972, 2000 and Localism Act 2011.

### **9.02 Composition**

#### **Political Balance**

The Governance Committee has to comply with the political balance rules in section 15 of the 1989 Act.

#### Membership

The Governance Committee will be composed of elected members and two co-opted members. .

#### Co-opted Independent Members

Co-opted independent Members will not be entitled to vote at meetings of the Governance Committee. Their role and function is to advise and assist the committee by providing an independent opinion on the matters before the committee.

## **Article 10 Joint Arrangements**

### **10.01 Arrangements to promote well being**

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

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

### **10.02 Joint arrangements**

- a. The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive 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 Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the Executive 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 Executive may appoint Members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a Member for a ward which is wholly or partly contained within the area.
- e. Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **10.03 Access to information**

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

#### **10.04 Delegation to and from other local authorities**

- a. The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- b. The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **10.05 Contracting out**

The Council for functions which are not Executive functions and the Executive for Executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

#### **10.06 Role of Members**

In performing their roles as part of the joint arrangements, Members of the Council will take into account not only the Members' Code, but also all other protocols and guidance notes, including (but not limited to) the Code for Dealing with Joint Arrangements with Third Parties set out in Part 5 of this Constitution and any guidance issued to Members who sit as representatives on outside bodies by the Monitoring Officer and/or Governance Committee.



**Article 11  
Officers**

**11.01 Management structure, Functions and Areas of Responsibility**

- a. **General.** The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- b. **Chief Officer.** The full Council will engage persons for the following posts, who will be designated Chief Officers and who will have delegated to them the following areas of responsibility in addition to those set out in the Council's Scheme of Delegation:

<b>POST</b>	<b>Functions and Area of Responsibility</b>
Chief Executive and Head of Paid Service	<p>Overall corporate management and operational responsibility including overall management responsibility for all Officers and all services</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Departmental: all functions of the Council but particularly policy advice and support to Members</p>
Director, People	<p>Overall: participate in the corporate management of the authority as a member of the Council Management Team (CMT)</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Reporting to the Chief Executive, the Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services.</p> <p>Departmental</p> <p>The current service groups in this Directorate are:</p>

POST	Functions and Area of Responsibility
	<p>Children's Services within the Council, Childrens Trust arrangements; the engagement and encouragement of local communities to improve children's services and ensure that services both within the City and across partner organisations improve outcomes for all and are organised around children and young people's needs; leading on safeguarding and promoting the welfare of children across all agencies; leading on learning for all, including adults.</p> <p>The Director, People is also the Council's statutory Director of Children's Services and Adult Social Services.</p>
Director of Corporate Services	<p>Overall: participate in the corporate management of the authority as a member of the Council Management Team (CMT).</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision; and</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Reporting to the Chief Executive, the Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services.</p> <p><u>Departmental:</u></p> <p>The current service groups in this Directorate are: Finance, Legal Services, Strategic HR, Licensing, Land Charges, Elections, Democratic Services, Client IT, Client Procurement, Client Property Services, Transactions, Customer Services, Internal Audit and Risk Insurance, and Partnership Management of the outsourced contracts. The Director of Corporate Services is also the Council's statutory Monitoring Officer</p>
Director, Place	<p>Overall: participate in the corporate management of the authority as a member of the Council Management team (CMT).</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p>

POST	Functions and Area of Responsibility
	<ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Reporting to the Chief Executive, the Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services.</p> <p><u>Departmental:</u> The current service groups in this Directorate are: Flood Risk Management, Waste Policy, Waste Collection and Disposal, Environmental Health including Port Health, Pest Control, Dog Control, Clinical Waste Collection, Consumer Protection, Management of the Crematorium and Cemeteries, Registration Services, Highways Maintenance and Parking Services, Neighbourhood Services [covering Parks, Open Spaces and Street Cleansing, community facilities and involvement and community safety], public sector housing</p> <p>Corporate Policy &amp; Performance; Research &amp; Information; Overview &amp; Scrutiny; Planning; Building Control; Sustainability; Transport Planning, Policy and Management; Housing for the Private Sector; Leisure &amp; Cultural Services [including Arts, Heritage, libraries, events and sports and recreation] and Estate Regeneration</p>
Director of Public Health	<p>Overall: participate in the corporate management of the authority as a member of the Council Management team (CMT).</p> <p>Authority to act: authorised to take all necessary action to implement decisions of the Council, its committees and the Executive within overall remit, including:</p> <ul style="list-style-type: none"> <li>▪ committing resources within approved budgets and subject to Financial Procedure Rules;</li> <li>▪ power to nominate or authorise any other officer to act on his or her behalf to action any decision</li> <li>▪ provision of professional advice to all parties in the decision-making process</li> </ul> <p>Reporting to the Chief Executive, the Director makes an active contribution to the strategic development of the City, provides a focus for community and other external contacts and provides overall leadership and management for a range of services</p>

POST	Functions and Area of Responsibility

- c. **Chief Officers: Financial Responsibilities :**
- d. **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts to undertake the statutory Chief Officer roles as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service
Director of Corporate Services	Monitoring Officer
Chief Financial Officer	Chief Financial Officer

Such posts will have the functions described in Article below.

- e. **Council Management Team** (the composition of which is a matter for the Chief Executive) consists of the Chief Executive, the Directors and Chief Financial Officer, Assistant Chief Executive and the Head of Strategic HR. In particular, the Board assists the Chief Executive to:
- ◆ pro-actively and reactively formulate advice to Councillors on key policy issues and developments for the City and the Council;
  - ◆ co-ordinate the contributions of the appropriate Directorate to the achievement of the Council's policy priorities;
  - ◆ provide an interface with all Councillors including (but not limited to) the Executive;
  - ◆ set standards for and monitor the development of key corporate requirements;
  - ◆ carry out key aspects of corporate governance, including the monitoring of work of external and internal auditors and inspectorates;
  - ◆ ensure that there is a performance management framework and system and that it is delivered / implemented; and
  - ◆ promote the organisational development and culture of the City Council and its workforce to deliver the Council's objectives.
- f. **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.

## **Article 12 Decision Making**

### **12.01 Responsibility for decision making**

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

### **12.02 Principles of decision making**

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

- ◆ proportionality (i.e. the action must be proportionate to the desired outcome);
- ◆ due consultation and the taking of professional advice from officers;
- ◆ respect for human rights;
- ◆ a presumption in favour of openness, accountability and transparency;
- ◆ setting out what options have been considered
- ◆ setting out reasons for the decision; and
- ◆ clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- ◆ understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- ◆ take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- ◆ leave out of account irrelevant considerations;
- ◆ act for a proper purpose, exercising its powers for the public good;
- ◆ not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- ◆ comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- ◆ act with procedural propriety in accordance with the rules of fairness.

To be lawful, a decision:

- ◆ if taken in full Council, Cabinet, Committee or sub-committee must comply with the principle of being reached by a majority of Councillors present and voting at a properly constituted meeting;
- ◆ be one which the decision-maker is empowered or obliged to take, otherwise it is ultra vires;
- ◆ not offend against *Wednesbury* reasonableness;
- ◆ if intended to secure action (as opposed, for example, to a resolution merely expressing the Council's collective view on an issue), be capable of execution

or will be of no effect; and

- ◆ not purport to undo what has already been done irrevocably (but it can rescind an earlier decision where this is feasible).

There can be no substitute for appropriate advice on a matter by matter basis. This Guidance cannot and does not purport to be comprehensive or replace that professional advice.

Note: “*Wednesbury* reasonableness”. This relates to the actions of a local authority or other public body in exercising its discretion, and relates to whether the body has acted irrationally (rather than *ultra vires*). The definition was given by Lord Greene in the *Wednesbury Case* (1948):

'When an executive discretion is entrusted by Parliament to a body such as the local authority in this case, what appears to be an exercise of that discretion can only be challenged in the courts in a limited class of case ... When discretion of this kind is granted, the law recognises certain principles upon which that discretion must be exercised, but within the four corners of those principles the discretion, in my opinion, is an absolute one and cannot be questioned in any court of law ... If, in the statute conferring the discretion, there is to be found expressly or by implication matters which the authority exercising the discretion ought to have regard to, then in exercising the discretion it must have regard to those matters. Conversely, if the nature of the subject matter and the general interpretation of the Act makes it clear that certain matters would not be germane to the matter in question, the authority must disregard those irrelevant collateral matters. There have been in the cases expressions used relating to the sort of thing that authorities must not do ... bad faith, dishonesty - those of course stand by themselves ... Discretion must be exercised reasonably. He must call his own attention to the matters which he is bound to consider, and exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he must truly be said, and often is said, to be acting unreasonably.'

### 12.03 Types of decision

- a. Decisions reserved to full Council  
Decisions relating to the functions listed in [Article 4.02](#) will be made by the Full Council and not delegated.
- b. Key decisions  
In this Constitution, a “Key Decision” shall mean an Executive decision which is likely:
  - i. to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the City Council’s budget for the service or function to which the decision relates;
  - ii. to be significant in policy or strategic terms as regards its effects on communities living or working in an area comprising two or more wards or electoral divisions in the City; or
  - iii. to have a particularly significant impact on any community as experiencing social exclusion or discrimination, whether that community is defined by geography or interest and even if that community is only located in one ward or electoral division in the area of the local authority.

## **Notes**

1. *In relation to paragraph (i) above, the term “significant” shall be construed as meaning £500,000 (except that this does not apply to care packages where the value of the care package exceeds £500,000). For the purposes of this paragraph, the term “care package” is defined as a package of personal care, support or education purchased as a consequence of an assessment of a child’s needs within the Children Act 1989, Children (Leaving Care) Act 2000 and the Education Act 1981 and the relevant guidance is contained in the Special Education Needs Revised Code of Practice. The decision to provide the care package is for the duration of the individual’s childhood, up to the age of 18 years, 19 years or 21 years according to the relevant legislation or guidance.*
  2. *In relation to paragraph (ii) above, the Council will, unless it is impracticable to do so, treat as if they were Key any decisions which are likely to have a significant impact on communities in one ward or electoral division. Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division, the decision-maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their right to see the relevant papers and make an input into the decision-making process.*
  3. *In considering whether a decision is likely to be significant, a decision-maker will also need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number or people living or working the locality affected. Regard should again be given to the underlying principles of open, transparent and accountable decision-making of this Constitution to ensure that there is a presumption towards openness.*
  4. *In interpreting after the event whether or not a decision should or should not have been classified as a Key Decision, the following will be taken into account:*
    - a. *the issue must be assessed on the basis of the information which could reasonably have been available to the decision-maker at the time;*
    - b. *the “de minimus” rule will be applied;*
    - c. *the level and nature of advice sought by the decision-maker. The Monitoring Officer and Chief Financial Officer will have significant roles to play in this.*
- c. A decision-taker may only make a Key Decision in accordance with the requirement of the Executive Procedure Rules set out in Part 4 of this Constitution.
- d. No treasury management decisions, as defined by the Chief Financial Officer, shall be deemed to be Key Decisions.

**Note:** “De minimus” means that (in this context) this rule does not apply to trifling, minor or insignificant variations, departures or breaches.

#### **12.04 Decision making by the full Council**

Subject to Article 12.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Executive**

Subject to Article 12.08, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

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

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

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **12.08 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.



**Article 13**  
**Finance, Contracts and Legal Matters**

**13.01 Financial management**

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

**13.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

**13.03 Legal proceedings**

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

**13.04 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 Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts – whether entered into on behalf of the local authority in the course of the discharge of an Executive or non-Executive function – shall be made in writing. The Contracts Procedure Rules, set out in Part 4 of this Constitution, prescribe the circumstances when a contract shall be made under the Common Seal of the Council.

**13.05 Common Seal of the Council**

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

## **Article 14**

### **Review and Revision of the Constitution**

#### **14.01 Duty to monitor and review the Constitution**

The Governance Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Monitoring Officer shall monitor the strengths and weaknesses of the Constitution adopted by the Council, and make recommendations to the Governance Committee as to ways in which it could be amended in order better to achieve the purposes set out in Article 1 of this Constitution.

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;
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice; and
5. report such findings to the Governance Committee.

#### **14.02 Changes to the Constitution**

- a. **Approval.** Changes to the Constitution arising either from a review, a motion from Council or from the Head of Legal and Democratic Services will only be approved by the full Council after consideration of the proposal by the Governance Committee.
- b. **Minor or inconsequential changes.** The Head of Legal and Democratic Services has delegated authority to update the Constitution arising from decisions of the Council or Executive or where legislation requires a change in wording or terminology, such changes to be reported to members of the Governance Committee.
- c. **Changes in the form of Executive.** Special Procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.
- d. **Delegations.** To reflect delegations lasting six months or more where a delegation is made to an Officer by the Council, a Committee, a Sub-Committee or the Executive, that delegation may need to be reflected within the Constitution (normally Part 3 or one of the Appendices) in which case the Head of Legal and Democratic Services has authority to update the Constitution to reflect that change.
- e. **Changes that are predominantly managerial in their nature:** the Head of Legal and Democratic Services has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two statutory officers, namely the Chief

Executive (Head of Paid Service) and Chief Financial Officer and where the matter has been subject to consultation with the appropriate Members (normally the relevant Cabinet Member and opposition spokespersons). Any such changes will be reported subsequently to Governance Committee.

**Article 15**  
**Suspension, Interpretation and Publication of the Constitution**

**15.01 Suspension of the Constitution**

- a. **Limit to suspension.** The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended by the full Council to the extent permitted within those Rules and the law.
- b. **Procedure to suspend.** A motion to suspend any Council Procedure Rule in accordance with Article 15.01 must be moved in accordance with the Council Procedure Rules. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1 of this Constitution.
- c. **Rules capable of suspension.** Only those Council Procedure Rules specified within the Council Procedure Rules as being capable of suspension, may be suspended.

**15.02 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.

**15.03 Publication**

- a. The Head of Legal and Democratic Services will make the Constitution available in Members' Rooms and will maintain the Constitution on the internet for public access.
- b. The Head of Legal and Democratic Services will ensure that copies are available for inspection at the Council's principal office (the Civic Centre), and can be purchased by members of the local press and the public on payment of a reasonable fee.

## **Schedule 1**

### **Description of Executive Arrangements**

The following parts of the Constitution shall constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 11 (Joint Arrangements);
4. Article 12 (Decision-making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions)

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### **PART 3: RESPONSIBILITY FOR FUNCTIONS**

#### **1. The Principles of Delegation**

1.1 One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Executive (whether acting individually or collectively) or Officer) makes the decision that will result in an action being taken or not taken.

#### **1.2 The Hierarchy of Decision-Making**

##### *The Full Council*

The Full Council will exercise the functions reserved by law to Full Council in Article 4 of this Constitution and those determined locally to be functions for Full Council as set out in Section 3 of this Part of the Constitution.

##### *The Executive*

The Executive will exercise the functions set out in Section 4 of this Part of the Constitution.

##### *The responsibility for local choice functions*

The responsibility for local choice functions will be exercised in accordance with Section 2 of this Part of the Constitution.

##### *Cabinet Members*

Cabinet Members will exercise the functions set out in Section 4 of this Part of the Constitution.

##### *Committees*

Committees will exercise the functions set out in Section 3 of this Part of the Constitution. Committees are able to appoint sub-committees and particularly the Overview and Scrutiny Management Committee will appoint standing panels mirroring the Cabinet Portfolios. Further details of the membership of these panels may be obtained from the Democratic Services Manager.

##### *Officers*

Officers will exercise delegated functions set out:

- a. in column 4 of the table in Section 2 of this Part of the Constitution (Responsibility for Local Choice Functions);
- b. in column 4 of the table in Section 3 of this Part of the Constitution (Committees and Sub-Committees – Regulatory Panels, etc);
- c. as specified in Section 4 of this Part of the Constitution (Executive Functions);
- d. under Section 1 of this Part of the Constitution (Principles);
- e. in the Scheme of Officer Delegation; and
- f. as provided for elsewhere in the Constitution.

1.3 If a function is delegated to the appropriate Chief Officer, the Chief Executive may nominate a substitute Chief Officer where this would, in the Chief Executive's opinion, be appropriate.

- 1.4 If a decision falls within the remit of a Cabinet Member described in Section 4 of this Part of the Constitution that Member may take the decision. If responsibility overlaps Cabinet Member remits, the decision must be referred to the Cabinet.
- 1.5 All references to “Chief Officer” means the Chief or Statutory Officer having primary responsibility for that function and area described in Article 11 of this Constitution. Such Officer will have all necessary power and authority to implement any such decision in relation to the functions on behalf of the decision-making body.
- 1.6 Limitations on and Parameters of Delegations
- a. The exercise of a delegated power, duty or function shall be subject to:
    - i. the City Council’s Policy Framework and Budget; and
    - ii. the City Council’s Constitution (including, but not limited to any Special Procedure and/or Protocol, the Council Procedure Rules, Financial Regulations, etc) and any Corporate Standards;
  - b. All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council.
  - c. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow. Such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control. Such authorisations should only be given where there is significant administrative convenience in doing so. The officer authorised by the other should act in the name of the officer who received the original delegation. No authorisation may be given if the statute or law prohibits it. Authorisations of this kind should not be considered to be norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.
  - d. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
  - e. Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
  - f. Where the exercise of powers is subject to prior consultation with another Cabinet Member or officer, that Cabinet Member or officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
  - g. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
  - h. All delegations are subject to:
    - i. the right of the delegating body to decide any matter in a particular case;
    - ii. the delegatee may in any case in lieu of exercising his/her delegated power refer to the delegating body for a decision; and
    - iii. any restrictions, conditions or directions of the delegating body.
  - i. In exercising delegated powers, the delegatee shall:



- i. take account of the requirements of the Constitution, Corporate Standards and Special Procedures and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - ii. shall exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and values; and
  - iii. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
- j. Except where otherwise expressly provided either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
  - k. Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.
  - l. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
  - m. Where a power or duty is delegated, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
  - n. If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
  - o. Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
  - p. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 (as amended). Any function that is not therefore specified must be assumed to be executive. Any mis-categorisation of a delegation as being Executive, non-Executive or other shall not invalidate a delegation.
  - q. Advice on procedures and matters to be taken into account in exercising delegated powers is provided set out in the Guidance for Officers issued by the Head of Legal & Democratic Services.

2. **Responsibility for Local Choice Functions**

2.1 These are functions that could be the responsibility of an Authority's Executive (under Regulations 3(1) and Schedule 2 of the Functions Regulations 2000).

<b>Function</b>	<b>Local Choice</b>	<b>Decision-Maker</b>	<b>Delegation of Functions<sup>1</sup></b>
1. Any function under a local Act, other than a function specified or referred to in Regulation 2 or Schedule 1	See Schedule 1 of this part of the Constitution	For non-Executive functions, see Article 4 and Section 3 of this Part of the Constitution For Executive functions, see Section 4 of this Part of the Constitution	Chief Executive, Directors & Heads of Service
2. Determining an appeal against any decision by, or on behalf of the authority (save for highways and related orders)	Non-Executive (save for highways and related orders)	Employment and Appeals Panel	Chief Executive, Directors & Heads of Service
3. Appointing review boards under regulations under subsection (4), Section 34 (determination of claims and reviews) of the Social Security Act 1998	N/A	Employment and Appeals Panel	Chief Executive, Directors & Heads of Service
	N/A	N/A	Head of Legal & Democratic Services and appropriate Director

<sup>1</sup> Reference should also be made to the Officers' Scheme of Delegation (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
4. Making arrangements under subsection (1), Section 67 of, and Schedule 18 to School Standards and Framework Act 1998 (appeals against exclusion of pupils)	Executive	Cabinet Member	Chief Executive, Directors & Heads of Service
5. Making arrangements under Section 94(1) and (4) of, and Schedule 24 to the School Standards and Framework Act 1998 (admission appeals)	Executive	Cabinet Member	Head of Legal & Democratic Services
6. Making arrangements under Section 95(2) of and Schedule 25 to the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Executive	Cabinet Member	Head of Legal & Democratic Services
7. Making arrangements under Section 20 (questions on Police matters at Council meetings) of the Police Act 1996 which allows questions to be put about the performance of a police authority	Non-Executive	Council	Head of Legal & Democratic Services
8. Making appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (Police authorities established under Section 3) to the Police Act 1996	Non-Executive	Council	Head of Legal & Democratic Services

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
<p>9. Any function relating to contaminated land:</p> <p>a. to the extent that the function involves the formulation of a strategic policy</p> <p>b. to the extent that the function does not involve the formulation of strategic policy</p>	<p>Executive</p> <p>Non-Executive</p>	<p>Cabinet Member</p> <p>Licensing Committee</p>	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u></p> <p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u></p>
<p>10. Performing any function relating to controlling pollution or managing air quality</p> <p>a. to the extent that the function involves the formulation of a strategic policy</p> <p>b. to the extent that the function does not involve the formulation of strategic policy</p>	<p>Executive</p> <p>Non-Executive</p>	<p>Cabinet Member</p> <p>Licensing Committee</p>	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u></p> <p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u> or other appropriate officer</p>
<p>11. The service of an Abatement Notice in respect of a statutory nuisance under Section 80(1) Environmental Protection Act 1990</p>	<p>Non-Executive</p>	<p>Licensing Committee</p>	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u> or other specified appropriate officers</p>
<p>12. The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply under Section 8 of the Noise and Statutory Nuisance Act 1993</p> <p>a. to the extent that the function involves the formulation of a strategic policy</p> <p>b. to the extent that the function does not involve the formulation of strategic policy</p>	<p>Executive</p> <p>Non-Executive</p>	<p>Cabinet Member</p> <p>Licensing Committee to the extent that it is non-Executive, subject to delegation</p>	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u></p> <p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u></p>

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
<p>13. The inspection of the authority's area to defect any statutory nuisance under Section 79 Environmental Protection Act 1990</p> <p>a. to the extent that the function involves the formulation of a strategic policy</p> <p>b. to the extent that the function does not involve the formulation of strategic policy</p>	<p>Executive</p>	<p>Cabinet Member</p>	<p><u>Head of Regulatory Services</u> <u>Head of Regulatory &amp; City Services</u> or other specified or appropriate officers</p>
<p>b. to the extent that the function does not involve the formulation of strategic policy</p>	<p>Non-Executive</p>	<p>Licensing Committee</p>	<p><u>Head of Regulatory Services</u> <u>Head of Regulatory &amp; City Services</u> or other specified or appropriate officers</p>
<p>14. The investigation of any complaints as to the existence of a statutory nuisance under Section 79 Environmental Protection Act 1990</p>	<p>Non-Executive</p>	<p>Licensing Committee</p>	<p><u>Head of Regulatory Services</u> <u>Head of Regulatory &amp; City Services</u> or other specified or appropriate officers</p>
<p>15. Obtaining information under Section 330 of the Town and Country Planning Act 1990 about interests in land</p> <p>a. to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders</p>	<p>Executive</p>	<p>Cabinet Member</p>	<p><u>Head of Planning, Transport and Sustainability</u> <u>Head of Culture &amp; Planning</u> or other specified or appropriate officers</p>
<p>b. to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders</p>	<p>Non-Executive</p>	<p>Planning and Rights of Way Panel</p>	<p><u>Head of Planning, Transport and Sustainability</u> <u>Head of Culture &amp; Planning</u> or other specified or appropriate officers</p>

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
<p>16. Obtaining information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976</p> <p>a. to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders</p> <p>b. to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders</p>	Executive	Cabinet Member	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u> or other specified or appropriate officers</p>
<p>17. Making agreements for highways works to be carried out</p>	Non-Executive	Planning and Rights of Way Panel	<p><u>Head of Regulatory Services</u><u>Head of Regulatory &amp; City Services</u> and Head of Legal &amp; Democratic Services or other specified or appropriate officers</p>
<p>18. The appointment of any individual:</p> <p>i. to any office other than an office in which s/he is employed by the authority</p> <p>ii. to any body other than:</p> <p>a. the authority;</p> <p>b. a joint committee of two or more authorities; or</p> <p>iii. to any committee or sub-committee of such a body and the revoking of any such appointment</p>	Non-Executive	Planning and Rights of Way Panel	<p><u>Head of Planning, Transport &amp; Sustainability</u><u>Head of Culture &amp; Planning</u></p>
	Executive	Cabinet	Head of Legal & Democratic Services

Function	Local Choice	Decision-Maker	Delegation of Functions <sup>1</sup>
<p>a. to the extent that appointments are to outside bodies in connection with functions which are the responsibility of the Executive</p>	Executive	Cabinet	Head of Legal & Democratic Services
<p>b. to the extent that appointments are not the responsibility of the Executive</p>	Non-Executive	Council	
<p>19. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities</p> <p>a. to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are the responsibility of the authority placing the staff</p>	Non-Executive	Employment and Appeals Panel	Head of Legal & Democratic Services
<p>b. to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the authority placing the staff.</p>	Executive	Cabinet	
<p>20. Any function of a local authority in their capacity as a Harbour Authority</p>	Non-Executive	Council	Chief Executive, Directors & Heads of Service

### 3. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Body	Membership	Functions (in addition to those in Article 4)	Delegation of Functions <sup>2</sup>
Full Council	All Members of the Authority	<p>Functions relating to Electoral Registration and the holding of elections</p> <p>Power to make, amend, revoke or re-enact byelaws</p> <p>Power to promote or oppose local or personal Bills</p> <p>Miscellaneous functions, including power to:</p> <ul style="list-style-type: none"> <li>• confer title of honorary alderman</li> <li>• admit to be an honorary freeman</li> <li>• make Rules of Procedure</li> <li>• appoint Proper Officers</li> <li>• approve the Authority's Statement of Accounts</li> <li>• operate Members' Allowance Scheme</li> <li>• make arrangements for the appointment of Committees and discharge of Council's functions</li> </ul>	<p>Returning Officer Electoral Registration Officer</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p> <p>Chief Financial Officer</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p>

<sup>2</sup> Reference should also be made to the Officers' Scheme of Delegation (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.



Body	Membership	Functions (in addition to those in Article 4)	Delegation of Functions <sup>2</sup>
		<ul style="list-style-type: none"> <li>• adoption and revision of the Statement of Licensing Policy (Licensing Act 2003)</li> <li>• adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)</li> </ul>	<p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p>
		<p>Making a request for single-Member electoral areas</p> <p>Resolving to change a Scheme for Elections</p> <p>Deciding whether to make proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval and a referendum and passing a resolution to make the change, including provision in Executive arrangements for the Executive Leader to be removed by resolution and passing a resolution for the removal of the Executive Leader</p> <p>Making a reorganisation order implementing recommendations of a community governance review</p>	<p>Electoral Registration Officer / Returning Officer</p> <p>Electoral Registration Officer / Returning Officer</p> <p>Head of Legal &amp; Democratic Services</p> <p>Head of Legal &amp; Democratic Services</p>

<b>Body</b>	<b>Membership</b>	<b>Functions (in addition to those in Article 4)</b>	<b>Delegation of Functions<sup>2</sup></b>
Planning and Rights of Way Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Licensing Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Licensing (Licensing & Gambling) Sub-Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Licensing (General) Sub-Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Chief Officer Employment Sub-Committee	See Schedule 3	Appointment of Chief Officers in accordance with the Council's Employment Procedure Rules	Chief Executive, Directors and Heads of Service
Chief Officer Employment Panel	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Governance Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service
Overview and Scrutiny Management Committee	See Schedule 3	See Schedule 2 of this Part of the Constitution	Chief Executive, Directors and Heads of Service

## **THE EXECUTIVE**

The Executive shall comprise:

Leader	Councillor Simon Letts
Health and Adult Social Care	Councillor Dave Shields
Children's Safeguarding	Councillor Mark Chaloner
Communities	Councillor Satvir Kaur
Education and Change	Councillor Daniel Jeffery
Environment and Transport	Councillor Jacqui Rayment
Housing and Sustainability	Councillor Warwick Payne
Resources and Leisure	Councillor Stephen Barnes-Andrews

## CABINET

The Cabinet will be responsible for the following functions:

- ◆ Leading the community planning process and the search for best value, with input and advice from overview and scrutiny committees and any other persons as appropriate;
- ◆ Leading the preparation of the local authority's Policy Framework and Budget;
- ◆ Leading the preparation of the authority's financial strategy;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of equalities and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ Achieving efficiencies through taking in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, delivering and implementing the budget and policies decided by the Full Council;
- ◆ Being the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs;
- ◆ Determining proposals for and variations to the Policy Framework and Budget that are to be proposed to Full Council;
- ◆ Considering reports of Overview and Scrutiny Management Committee, and its Panels (sub-committees) and formulating responses to those;
- ◆ Making any decision in respect of an Executive Function which has been delegated where the delegate has decided not to exercise his/her delegation;
- ◆ In the absence of any Cabinet Member (including the Leader) or where any Cabinet Member (including the Leader) is not available or able to make a decision, Cabinet may, subject to the Leader's agreement, discharge that Executive Function in respect of that decision;
- ◆ Subject to the budget, determining the grants to be paid by the Council;
- ◆ The appointment of any individual:
  - (a) to any office other than an office in which s/he is employed by the authority;
  - (b) to any other 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 revoking of any such appointment, to the extent that appointments are usually but not exclusively to outside bodies in connection with functions which are the responsibility of the Executive;

The appointment of any panel, body or other grouping of elected Members, officers or other persons, together or in combination, whether or not jointly with any other authority or organisation other than a committee, a sub-committee of the Council or a joint committee of two or more authorities, as defined in Section 101 of the Local Government Act 1972.

Delegation of Functions

The Chief Executive, Directors and Heads of Service.<sup>3</sup>

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<sup>3</sup> Reference should also be made to the Officers' Scheme of Delegation (available from the Democratic Services Manager) for any additional, supplementary or limits to the delegations set out in this Constitution. In the absence of any reference in the Officers' Scheme of Delegation, any function delegated by virtue of this part of the Constitution is delegated in full, although the delegator and delegatee may exercise that function in totality.

## LEADER

The Leader shall be responsible for:

- ◆ Appointing a Cabinet of not fewer than three and not more than ten councillors (including the Leader);
- ◆ Determining a scheme of delegation for Executive Functions.

The Leader shall also be responsible for the following functions:

- ◆ The style, strategy, policy and co-ordination (across the board) and the direction and utilisation of resources;
- ◆ The promotion of positive partnerships and consultations with citizens, other statutory agencies, business and voluntary organisations in Southampton in the context of achieving the Vision for the City as expressed by the Council and its partners;
- ◆ The Council's pursuit of efficiencies and Value for Money in its use of resources for the provision of services to citizens of the City and its business community by pursuing a holistic approach through the effective integration of programmes and plans including the Sustainable Community Strategy and Southampton Connect and the Council's customer focus through programmes of continuing improvement;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Leading on matters that are the responsibility of the Cabinet, including representing the Council with regard to its Member contacts with the Government and any regional, national or international organisations;
- ◆ Promoting and pursuing the principles of equalities in all aspects of the Council's role as an employer, service provider and in the exercise of community leadership;
- ◆ The application of national and sub-regional policies locally and any consequent forward planning necessary;
- ◆ Leading on responses to cross cutting national policies and initiatives (save where the Leader directs a cabinet Member to take the lead);
- ◆ Providing strategic political leadership and vision for the Council as a whole;
- ◆ Representing the view of the Council on matters of corporate and strategic policy to the Government and other bodies;
- ◆ The monitoring of the performance of Cabinet Members;
- ◆ Maintaining relationships with Group Leaders, chairs of committees, panels and regulatory bodies;
- ◆ Providing a link between the Executive and non-Executive Members of the Council;
- ◆ The management, operation and agenda for the Cabinet;
- ◆ Leading on the formulation and delivery of Corporate Policy and Performance;
- ◆ Leading on corporate legal and democratic issues, including (in so far as they are Executive functions) Land Charges and Licensing;
- ◆ Leading on all aspects of economic development including (but not limited to) the Solent Local Enterprise Partnership and City Deal;
- ◆ Leading on regeneration (other than estate regeneration) including chairing any related bodies, considering and determining bids;

- ◆ Leading on marketing and communications and promoting the work of the Council;
- ◆ Leading and promoting major "flagship" projects of strategic significance, including major City developments, to Southampton;
- ◆ Leading on the development of European and/or international initiatives and/or bids;
- ◆ Leading on urban design issues and regional spatial planning;
- ◆ In consultation with the Cabinet Member for Resources, the forward planning of the Council's Revenue and Capital Budget;
- ◆ Leading on the Council's roles and linkages with Southampton Connect;
- ◆ Planning Policy and (in so far as it is an Executive function) Development control particularly the City Centre Action Plan and contributing to Partnership for Urban South Hampshire (PUSH);
- ◆ Leading on the strategic overview of employment and workforce issues, including all aspects of human resources
- ◆ Taking an overview on the development and implementation of devolved funding programmes including where appropriate on behalf of Southampton Connect save where such programmes fall within another Portfolio;
- ◆ Leading on business marketing, supporting businesses and City Centre Management;
- ◆ Ensuring that there is effective liaison and joint working between Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development and issuing statements and bulletins as appropriate;
- ◆ All other Executive functions not otherwise delegated.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE**

The Cabinet Member shall be responsible for the following functions:

- ◆ Save as reserved to Cabinet, all Executive health and adult social care functions;
- ◆ The development, implementation, monitoring and review of the health and adult social care policies and strategies;
- ◆ The promotion of positive partnerships with service users, carers, local agencies, businesses and voluntary organisations in the context of delivering effective adult social care services;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Leading on the implementation and delivery of health and social care legislation and guidance;
- ◆ Leading for the Council on the strategy for adult social care services for vulnerable adults (ie people with needs by reason of their: Age, Mental Health, Learning Disability, Physical and Sensory Disability, Substance Misuse or other special care needs e.g. people with HIV/AIDS) and in ensuring the Council's commitments with regard to the provision of statutory social services for these groups are met and they are safeguarded;
- ◆ Working with the Cabinet Members for Children's Services and Change and Communities (and other Cabinet Members and partners as appropriate) on jointly leading on the Council's effective participation in the range of joint planning, consultation and funding arrangements for the provision of health and social care services for adults with the NHS, service users and carers, voluntary and private sector service providers;
- ◆ Work closely with the Cabinet Members for Communities, Housing and Children's Services on the development, delivery and improvement of housing, health and social care services to vulnerable adults, children and young people;
- ◆ Leading for the Council on the management of programmes and services for providing support to disadvantaged people and groups in the City;
- ◆ Leading on public health;
- ◆ Leading on the Health and Wellbeing Board and strategy;
- ◆ The promotion of positive partnerships with service users, carers, local agencies, businesses and voluntary organisations in the context of delivering effective public health services;
- ◆ Matters relating to the Portfolio involving Member contacts with the local NHS bodies, GPs, the Government and any regional or national organisations;
- ◆ Leading for the Council on the strategy for health services and working with other Cabinet Members to ensure that the Council's commitments with regard to the provision of statutory social services for the most vulnerable groups are met and they are safeguarded;



- ◆ Working with the Cabinet Member Children's Services (and other Cabinet Members and partners as appropriate) on jointly leading on the Council's effective participation in the range of joint planning, consultation and funding arrangements for the provision of health and social care services for adults with the NHS, service users and carers, voluntary and private sector service providers;
- ◆ Work closely with the Cabinet Members for Housing and Sustainability and Children's Services on the development, delivery and improvement of housing, health and social care services to vulnerable adults, children and young people;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR EDUCATION AND CHANGE**

### **Children's Services**

The Cabinet Member shall be responsible for the following functions:

- ◆ Save as reserved to the Cabinet, all Executive functions in respect of children's services and learning taking full account of the statutory guidance for the Lead Member for Children's Services;
- ◆ The development, implementation, monitoring and review of the Council's policies and strategies relating to children's services and any other related matters;
- ◆ The promotion of positive partnerships with private and voluntary organisations in the context of developing Southampton's children's services;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any regional or national organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The leadership of and political accountability for the effectiveness, availability and value for money of all the local authority's children's services;
- ◆ Working with the Cabinet Members for Communities and Children's Safeguarding on the engagement and encouragement of local communities in order to improve children's services and to ensure that services, both within the City and across partner organisations, improve outcomes for all and are organised around family, children and young people's needs;
- ◆ Leading on all functions in respect of services to young people with the exception of Youth Offending and the Youth Justice Plan;
- ◆ Working with the Cabinet Member for Communities in respect of the delivery of Youth Offending priorities and the Youth Justice Plan
- ◆ Leading on schools, education asset management, early years education, admissions and attendance standards and improvement, education welfare service, schools organisation, extended schools and all ancillary education activities;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Leading on the Children's and Young People's Trust and the joint commissioning of services related to the activities of the Portfolio and/or Trust;
- ◆ Leading on the Children's and Young Peoples priorities;
- ◆ Raising school standards;
- ◆ Leading on School Admissions and Exclusions Policies;
- ◆ Leading on Education Capital and Schools Repairs and Maintenance Programmes;
- ◆ Leading on e-Communications in Schools, platforms for electronic learning and integrated IS/ITS systems across children's services;
- ◆ Leading on Special Educational Needs and Equalities in Education;
- ◆ Leading on Student Finance;

- ◆ Leading on the 14-19 Strategy;
- ◆ Oversight of the commissioning of all learning and skills for 14-19 year olds in the City in line with statutory obligations;
- ◆ Leading on budget allocation to schools within the rules for Local Management of Schools Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Leading on life-long learning;
- ◆ Working with the Cabinet Members for Health and Adult Services and Communities (and other Cabinet Members and partners as appropriate) on jointly leading on the Council's effective participation in the range of joint planning, consultation and funding arrangements for the provision of health and social care services for adults with the NHS, service users and carers, voluntary and private sector service providers;
- ◆ Leading on the Council's effective participation in the range of joint planning, consultation and funding arrangements for the provision of all services for children with the NHS, Service Users and Carers, Voluntary and Private Sector service providers through the Children and Young People's Trust;
- ◆ Working with the Cabinet Member for Health and Adult Services on the Health and Wellbeing Board;
- ◆ Leading on the development and delivery of Sure Start children's centres programmes in the City and the promotions of mainstreaming Sure Start principles within relevant Council services;
- ◆ Leading on the range of services available to young people;
- ◆ Leading on apprenticeships;

### **Change**

- ◆ Save as reserved to Cabinet, all Executive functions in relation to the Change Programme;
- ◆ Leading the Council's change Programme
- ◆ Chairing the Change Programme Board;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Overall strategic responsibility for the development, implementation, monitoring and review of the Council's policies and strategies and any other related matters relevant to this Portfolio;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by

- the Cabinet;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
  - ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR CHILDREN'S SAFEGUARDING**

**This Cabinet Member is the Lead Member with responsibilities for children's services under Section 19 of the Children Act 2004**

The Cabinet Member shall be responsible for the following functions:

- ◆ Leading on safeguarding children and promoting an inclusive approach to the welfare of children across all agencies including SEN, emotional literacy, services to children with disabilities and school attendance
- ◆ Leading on the strategy for social care for children and young people, on the Council's commitments with regard to its role as the corporate parent for children and young people looked after and its responsibilities under relevant legislation on the Fostering and Adoption Services, on the Local Safeguarding Children and young people's Board, asylum seeking minors and their families
- ◆ Leading on the strategy for social services for children, on the Council's commitments with regard to its role as the corporate parent for looked after children and its responsibilities under relevant legislation on the Fostering and Adoption Services, on the Local Safeguarding Children's Board, asylum seeking minors and their families

The Cabinet Member shall work jointly with other Cabinet Members (but is not lead member) on the following areas:

- ◆ The development, implementation, monitoring and review of the Council's policies and strategies relating to children's services and any other related matters;
- ◆ The promotion of positive partnerships with private and voluntary organisations in the context of developing Southampton's children's services;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any regional or national organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ Working with the Cabinet Members for Education and Change and Communities on the engagement and encouragement of local communities in order to improve children's services and to ensure that services, both within the City and across partner organisations, improve outcomes for all and are organised around family, children and young people's needs;
- ◆ All functions in respect of services to young people including Youth Offending and the Youth Justice Plan;
- ◆ The Children's and Young People's Trust and the joint commissioning of services related to the activities of the Portfolio and/or Trust;
- ◆ Working with the Cabinet Members for Health and Adult Services, Education and Change and Communities (and other Cabinet Members and partners as appropriate) on jointly leading on the Council's effective participation in the range of joint planning, consultation and funding arrangements for the provision of health and social care services for adults with the NHS, service users and carers, voluntary and private sector service providers;

- ◆ Working with the Cabinet member for Health and Adult Services on the Health and Wellbeing Board;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR COMMUNITIES**

The Cabinet Member shall be responsible for the following functions:

- ◆ Save as reserved to Cabinet, all Executive functions in relation to communities and “troubled” families;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Overall strategic responsibility for the development, implementation, monitoring and review of the Council’s policies and strategies and any other related matters relevant to this Portfolio;
- ◆ Leading on the Youth Offending Teams and the Youth Justice Plan
- ◆ Leading on all equalities legislation and ensuring the council completes the Equalities and Community Safety Impact Assessments as required;
- ◆ Leading on the co-ordination and development of City-wide community involvement activities including but not limited to the provision of Community Centres and other Community Facilities;
- ◆ Leading on the implementation of a co-ordinated cross-council enforcement function;
- ◆ The promotion, development, implementation, monitoring and review of social cohesion policies and projects across all service areas included the submission of appropriate external funding proposals;
- ◆ Leading on initiatives which encourage the development of social enterprises and projects to improve employability of local people;
- ◆ Taking the lead on emergency planning and all related civil defence issues;
- ◆ Ensuring appropriate consultation methods and arrangements are in place for the provision of council services;
- ◆ Leading on volunteering and advice services (including infrastructure);
- ◆ Ensuring individuals can access the Council services they require and that they are free to live without fear of anti-social behaviour, discrimination and prejudice;
- ◆ Leading on the delivery of the Anti-Social Behaviour strategy and other related initiatives;
- ◆ Leading on Community Safety, including tackling alcohol related crime, CCTV and the Domestic Violence Strategy;
- ◆ Leading on the Hate Crime and Harassment Strategy;
- ◆ Working with all other Cabinet Members, and any other bodies / agencies as appropriate, taking a strategic lead on the “troubled” families initiative;
- ◆ Working with the Cabinet Member for Children’s services on the engagement and encouragement of local communities in order to improve services and to ensure that

services, both within the City and across partner organisations, improve outcomes for all and are organised around community, family, children and young people's needs;

- ◆ Leading on health and safety;
- ◆ Leading on events management;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.



## **CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT**

The Cabinet Member shall be responsible for the following functions:

- ◆ Save as reserved to Cabinet, all Executive functions in respect of environment, transport, waste management,, environmental health, trading standards and consumer protection (but excluding development control and any regulatory matters that are non-executive functions within the remit of any of the regulatory committees);
- ◆ The development, implementation, monitoring and review of the Council's Highways and parking services, Waste management and fleet transport, Travel and Transport, Environmental Health and Environmental policies and strategies and any other related matters;
- ◆ Delivery of the Vision for Transport in the City through the Local Transport Plan 2;
- ◆ The promotion of positive partnerships with private and voluntary organisations in the context of developing Southampton's Highways and Transport infrastructure;
- ◆ Leading on the Highways service, determining service levels and required funding through the delivery model;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ Leading on the formation and delivery of environment related policies, programmes and performance excluding Planning Policy, regional spatial/ strategic planning and planning policy for HMOs;
- ◆ Improving the Street Scene and environment, making Southampton a smarter, safer, and cleaner City;
- ◆ Leading on street cleansing, public conveniences;
- ◆ Leading on parks and open spaces, nature conservation and allotments
- ◆ Leading on:
  - Transport for South Hampshire(TfSH);
  - Building Control;
  - Transportation strategy and development, including traffic and road safety and travel planning;
  - Use of Council Transport;
  - Waste disposal and collection (including links with Project Integra and recycling);
  - Fleet transport;
  - Highways and bridges (including the Itchen Bridge);
  - Highways maintenance;
  - Network management;
  - Winter maintenance;

- Structural maintenance;
  - Passenger transport;
  - Car Parks;
  - Street lighting;
  - Environmental initiatives;
  - Environmental Health, air quality management, trading standards and the Port Health Authority;
  - Bereavement Services, cemeteries and crematorium;
  - Registrar of births, marriages, deaths, civil partnerships and celebratory services.
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
  - ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
  - ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
  - ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR HOUSING AND SUSTAINABILITY**

The Cabinet Member shall be responsible for the following functions:

- ◆ Save as reserved to Cabinet, all Executive functions in respect of housing, and sustainability
- ◆ The development, implementation, monitoring and review of the Council's housing, and sustainability related policies and strategies and any other related matters;
- ◆ The promotion of positive partnerships with neighbourhoods, tenants, leaseholders, Housing Associations, businesses and voluntary organisations in the context of the Council's role as a Landlord and strategic planner of social housing and in relation to neighbourhoods and local services;
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Preparing the Council's Housing Strategy to the Government, together with other bids to obtain resources for housing;
- ◆ Developing the Council's Housing Revenue Account Business Plan;
- ◆ Development and implementation of the Council's Programme of Housing Investment in the City;
- ◆ Working with Homes & Communities Agency and partner Housing Associations to deliver new affordable homes in the city;
- ◆ Leading the Council's annual Rent Setting process;
- ◆ Setting and implementing all Council Housing Policies and Tenancy Conditions including the repair, renovation and improvement of the Council's housing stock, Sale of Council houses, tenant participation, estate services, housing allocations and rent collection;
- ◆ Homelessness services including the provision of temporary housing, housing advice and mediation services;
- ◆ All statutory responsibilities and policies relating to Private Sector Housing, Houses in Multiple Occupation, unfit houses, renovation grants, enforcement action, compulsory purchase and housing advice and welfare rights services;
- ◆ Assessing current and future housing need in the City and working with partners to increase the supply and choice of housing in conjunction with the Leader;
- ◆ Leading on the provision of the Neighbourhood Warden Service and development of Youth and Junior Warden Schemes and/or activities;
- ◆ Leading on estate regeneration;
- ◆ Developing the empty property strategy, funding of housing associations from local resources and the provision of grants to voluntary housing organisations in the City;
- ◆ Leading on the management of Kanes Hill Gypsy Site;

- ◆ Gypsies and Travellers Strategy (as part of the overall Housing Strategy);
- ◆ Ensuring individuals can enjoy their homes and neighbourhoods without the fear of anti-social behaviour, discrimination and prejudice;
- ◆ Leading on the Council's strategy to tackle fuel poverty;
- ◆ Leading on sustainability including (but not limited to) energy and the Council's Energy Strategy;
- ◆ The implementation and review of the citywide Low Carbon City Strategy;
- ◆ Leading on:
  - Flood risk management;
  - Climate Change;
  - Carbon Reduction Commitment;
  - Green infrastructure and biodiversity
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to the full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

#### Delegation of Functions

The Chief Executive, Directors and Heads of Service.

## **CABINET MEMBER FOR RESOURCES AND LEISURE**

The Cabinet Member shall be responsible for the following functions:

- ◆ To act as Deputy Leader and accordingly discharge the functions of the Leader in the absence of the Leader;
- ◆ Save as reserved to Cabinet, all Executive functions in relation to resources, financial services including (but not limited to) financial management, accounting and audit matters, property, operational procurement, commissioning, ICT (Information Communication Technology), customer care and leisure.
- ◆ Setting a clear and realistic direction, reflected in the Council Plan (CP) and financial strategy; setting out clear corporate priorities and ensuring they are reflected in the budget and other planning and decision-making processes; ensuring that decisions of the Executive reflect corporate priorities and plans, including decisions about the allocation of resources; communicating decisions on corporate priorities to the local community;
- ◆ Matters relating to the Portfolio involving Member contacts with the Government and any Regional or National organisations;
- ◆ The promotion and pursuit of principles espoused by the Council in respect of social cohesion, and a sustainable environment, in its role as an employer, service provider and the exercise of community leadership;
- ◆ The application of national policies locally and any consequent forward planning necessary;
- ◆ Overall strategic responsibility for the development, implementation, monitoring and review of the Council's budgetary, financial, benefits and leisure policies and strategies and any other related matters;
- ◆ To Chair the Capital Board;
- ◆ Overall strategic overview of the Capital programme;
- ◆ Ensuring that supportive frameworks are maintained and developed for Members and employees in terms of ICT, operational procurement, property, customer services, modern records and scrutiny
- ◆ Overall strategic responsibility for the development, implementation, monitoring and review of the Council's procurement, performance and contract management policies and strategies and any other related matters;
- ◆ Taking a strategic cross-council overview in relation to procurement, performance and contract management, and working with other Cabinet Members with direct service leads in those areas as appropriate to ensure the Council achieves better value;
- ◆ Leading on Best Value;
- ◆ Leading on Risk Management;
- ◆ Leading on commissioning;
- ◆ Leading on grants to voluntary organisations;
- ◆ Leading on all property issues (excluding the management of the Council's housing stock);
- ◆ The promotion of positive partnerships with private and voluntary organisations in the context of developing leisure, culture and heritage facilities in the City;
- ◆ Leading on leisure, culture and heritage functions, play and self development, media/information society, dual use facilities and activities, events and entertainment;
- ◆ Leading on libraries;
- ◆ Leading on sports development and leisure venues;

- ◆ Leading on the tourism strategy and cruise industry;
- ◆ Strategic responsibility for financial matters in relation to the Portfolio;
- ◆ Liaison and joint working with other Cabinet Members to ensure the objectives of the Council are met and that Business and Service Plans link with commitments agreed by the Cabinet;
- ◆ Reporting to the Full Council and its decision making and scrutiny functions where appropriate;
- ◆ Seeking comments on Policy development through Cabinet and Scrutiny and issuing statements and bulletins related to matters within the Portfolio.

Delegation of Functions

The Chief Executive, Directors and Heads of Service.

**Schedule 1**  
**FUNCTIONS UNDER THE HAMPSHIRE ACT 1983**

*Executive Functions*

- Sections 18, 19, 20 and 21 – Itchen Bridge – Council has power to make order re demanding, taking and recovery of tolls and may make byelaws re the bridge. Also power to prosecute.
- Sections 22 – 31 – Itchen Bridge – determination of level, type and recovery of toll
- Section 32 – Itchen Bridge – Finance
- Section 35 – Itchen Bridge – Closure of
- Section 36 – 46 – Itchen Bridge – tidal and other works affecting bridge
- Section 70 – Council has power to provide facilities for hovercraft, hydrofoil vessels etc

*Non – Executive Functions*

- Section 4 – Hairdressers and Barbers – Application for registration to carry on business on premises. Council to issue certificate of registration. Council can prosecute for non – registration or for failure to display certificate.
- Section 7 – Touting, hawking, photographing etc – Council may designate places and grant consent. Council can prosecute and aggrieved in respect of Consent can appeal to Magistrates Court.
- Section 8 – Control of stray dogs
- Section 9 – Seizure of horses
- Section 10 – Byelaws as to Leisure Centres – Council may make byelaws for specified purposes.
- Sections 11, 12 and 13 – Fire Precautions – Council may reject plans or impose conditions. Any person aggrieved may appeal. Council has power to prosecute.
- Section 34 – Itchen Bridge – Power to make byelaws
- Sections 58 and 59 – Unlawfully parked vehicles re the Common, parks and recreation grounds – Council may prosecute
- Section 60 – Mayflower Park – Council may close the park for 10 consecutive days etc
- Section 61 – Pedestrian ways – Council may by resolution etc declare a pedestrian way and may make byelaws
- Section 68 – Prevention of obstruction of streets

**Schedule 2**  
**TERMS OF REFERENCE FOR EMPLOYMENT AND APPEALS COMMITTEE**

**GENERAL**

- a. This Panel is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972.
- b. The Council has arranged under Section 101(1) of that Act for the discharge by the Panel of such of the council's functions as are within the Panel's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Panel may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2.

**TERMS OF REFERENCE**

1. All matters relating to hearings and determination of any employee grievance or appeal under the Council's disciplinary, grievance, dismissal and other employee relations procedure
2. Power to appoint staff, excluding Chief Officers, and to determine the terms and conditions on which all staff hold office (including procedures for their dismissal) Section 122 Local Government Act 1972
3. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities, to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the Executive of the authority placing the staff Section 13(4) and (5) Local Government Act 1972
4. Functions relating to local government pensions, etc Regulations under Section 7, 12 or 24 Superannuation Act 1972



5. Functions under the Fireman's Pension Scheme relating to pensions, etc as respects persons employed as members of Fire Brigades maintained pursuant to Section 4 of the Fire Services Act 1947 Section 26 Fire Services Act 1947 (10 & 11 Geo.6.C.41)
6. To agree redundancy and severance payments and early release of pension benefits, where added years, enhanced payments or any element of discretion is sought.
7. To determine any appeal against any decision made under a delegation where that delegation expressly confers a right of appeal. Such appeals will not extend to any matter falling within the terms of reference of another Panel, unless expressly provided for. Furthermore, such appeals shall not cover rights of appeal from the decision of any other Panel, save where expressly provided for.
8. To determine any appeal against a decision where a right of appeal exists at law, but where there is no specific provision in the terms of reference of any other Committee or Panel for the hearing of such an appeal.
9. To determine any appeal where in the opinion of the Head of Legal and Democratic Services a right of appeal should be conferred to give effect to the operation of the principles of natural justice or the principles contained in the Human Rights Act.
10. Without prejudice to the generality of the above, the Panel will be able to determine the following:
  - (i) An appeal from a decision relating to Education Awards and Home to School Transport Assistance.

#### Delegations

Any delegation previously expressed as being "Head of Legal & Democratic Services following consultation with the Chair of Employment Panel" shall be revised so that it reads "Head of Legal & Democratic Services following consultation with the relevant Cabinet Member".

## **TERMS OF REFERENCE FOR LICENSING COMMITTEE**

### **GENERAL**

- a. This is a committee of the Council appointed by the Council under Section 6 of the Licensing Act 2003.
- b. The Council has arranged under Section 7 of the 2003 Act and Section 101(1) of the 1972 Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

### **TERMS OF REFERENCE**

1. To undertake all licensing functions, powers and duties conferred by the Licensing Act 2003 and as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act, 1972 including but not limited to the matters set out below.
2. Approve a framework for the effective discharge by the Council of the statutory licensing function by itself and its sub-committees.
3. Keep under review and publish a Statement of Licensing Policy. .
4. Appoint sub-committee(s) to discharge the Council's licensing functions under the Licensing Act 2003.
5. Appoint sub-committee(s) to discharge the Council's licensing functions as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act 1972.
6. To set licence fees as appropriate under the Gambling Act 2005.

## **TERMS OF REFERENCE FOR LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE**

### **GENERAL**

- a. This is a sub-committee of the Licensing Committee appointed by that Committee under the Licensing Act 2003.
- b. The Committee has arranged under Section 9 of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Sub-Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Sub-Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

### **TERMS OF REFERENCE**

#### **Licensing Act 2003**

Except for matters of Policy to undertake all functions, powers and duties conferred by the Licensing Act 2003 including but not limited to the matters set out below:

1. Power to determine applications for personal licences.
2. Power to determine applications for premises licences and club premises certificate.
3. Power to determine applications for variation of premises licence and club premises certificates.
4. Power to register and deregister designated premises supervisors.
5. Power to determine applications for transfer of premises licences.
6. Power to review premises licence and club premises certificates.
7. Power to determine police objections to temporary event notices.

#### **Gambling Act 2005**

8. a. Where representations on the following applications have been received and not withdrawn to determine applications:
  - i. for a premises licence
  - ii. for a variation to a premises licence
  - iii. for a transfer to a premises licence

- iv. for a provisional transfer
    - v. for a club gaming or club machine permit
  - b. The cancellation of a club gaming or club machine permit
  - c. Decision to give a counter notice to a temporary use notice
  - d. Take “action” under Section 202 where the review is heard by the sub committee
- 9. Power to register pool betting operating licence.
- 10. Power to grant track betting licences.
- 11. Power to licence inter-track betting schemes.
- 12. Power to grant gaming and betting machine licences.
- 13. Power to register societies wishing to promote lotteries.
- 14. Power to issue premises licences and to receive temporary use notices.

## TERMS OF REFERENCE FOR LICENSING (GENERAL) SUB-COMMITTEE

### GENERAL

- a. This Sub-Committee is a Sub-Committee of the Licensing Committee appointed by the Committee under the Local Government Act 1972.
- b. The Committee has arranged under Section 101(1) of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Sub-Committee's competence has been delegated to an officer, the Sub-Committees may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal and Democratic Services in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

Except for matters of Policy to undertake all licensing functions, powers and duties conferred by the Local Government Act 1972 including but not limited to the matters set out below:

1. Power to license hackney carriages and private hire vehicles
  - (a) as to the hackney carriages, the Town Police Clauses Act, 1847 (10 & 11 Vict.c.89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict.c.55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57,58,60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976(c.57);
  - (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
2. Power to license drivers of hackney carriages and private hire vehicles Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
3. Power to license operators of hackney carriages and private hire vehicles Sections 51, 53, 54, 59, 61 and 69 of the Local Government (Miscellaneous Provisions) Act 1976
4. Power to license sex shops and sex cinema Section 2 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1976
5. Power to license performances of hypnotism The Hypnotism Act 1952

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| 6. Power to license market and street trading  | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c.vii) and section 6 of the London Local Authorities Act 1994   |
| 7. Power to make closing orders with respect to take-away food shops   | Section 4 of the Local Government (Miscellaneous Provisions) Act, 1982   |
| 8. Power to license dealers in game and the killing and selling of game  | Sections 5,6,17,18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874 (c.73), and section 213 of the Local Government Act 1972 (c.70) |
| 9. Power to license scrap yards  | Section 1 of the Scrap Metal Dealers Act 1964 (c.69)   |
| 10. Power to license persons to collect for charitable and other causes  | Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House to House Collections Act 1939 (c44)  |
| 11. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption | Section 13(2) of the Criminal Justice and Police Act 2001  |
| 12. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis  | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982  |
| 13. Power to license pleasure boats and pleasure vessels   | Section 94 of the Public Health Acts Amendment Act 1907 (c.53)   |
| 14. Duty to keep list of persons entitled to sell non-medicinal poisons  | Sections 3(1)(b)(ii), 5,6 and 11 of the Poisons Act 1972 (c.66)  |
| 15. Power to register and license premises for the preparation of food   | Section 19 of the Food Safety Act 1990 (c.16)  |
| 16. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds   | The Safety of Sports Grounds Act 1975 (c.52)   |
| 17. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds  | Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27)  |
| <u>Note:</u> The above function is exercised by the Fire Officer.  |  |
| 18. Power to issue fire certificates   | Section 5 of the Fire Precautions Act 1971 (c.40)  |
| 19. Power to license premises for the breeding of dogs   | Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11)   |

20. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964c.70 and 1970c.70); section 1 of the Breeding of Dogs Act 1973 (c.60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999
21. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulations) Act 1925 (c.38)
22. Power to license zoos	Section 1 of the Zoo Licensing Act 1981 (c.37)
23. Power to license dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976 (c.38)
24. Power to license knackers' yards	Section 4 of the Slaughterhouses Act 1974. <i>See also</i> the Animal By-Products Order 1999 (S.I. 1999/646)
25. Animal Welfare powers	Animal Welfare Act 2006 (all functions insofar as they are non-Executive functions)
26. Power to license the employment of children	Part II of the Children and Young Persons Act 1933 (c33), byelaws made under that part, and part II of the Children and Young Persons Act 1963 (c37)
27. Power to approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)
28. Power to grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40)
29. Power to license agencies for the supply of nurses	Section 2 of the Nurses Agencies Act 1957 (c.16)
30. Power to issue licences for the movement of pigs	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11)
31. Power to license the sale of pigs	Article 13 of the Pigs (Records, Identification and Movement) Order 1995
32. Power to license collecting centres for the movement of pigs	Article 14 of the Pigs (Records, Identification and Movement) Order 1995
33. Power to issue a license to move cattle from a market	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871)
34. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35)
35. Power to approve meat product premises	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
36. Power to approve premises for production of minced meat or meat preparations	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)
37. Power to approve dairy establishments	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)

38. Power to approve egg product establishments	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520)
39. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
40. Power to approve fish products premises	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994)
41. Power to approve dispatch or purification centres	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
42. Power to register fishing vessels on board which shrimps or molluscs are cooked	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
43. Power to approve factory vessels and fishery product establishments	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
44. Power to register auction and wholesale markets	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
45. Duty to keep register of food business premises	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828)
46. Power to register food business premises	Regulation 9 of the Food Premises (Registration) Regulations 1991
47. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer	Part 1 of the Health and Safety at Work etc. Act 1974 (c.37)
48. Functions relating to sea fisheries	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38)
49. Registration of hairdressers and barbers	Section 4 Hampshire Act 1983
50. Touting, hawking, photography etc	Section 7 Hampshire Act 1983
51. Control of stray dogs	Section 8 Hampshire Act 1983
52. Seizure of horses	Section 9 Hampshire Act 1983
53. Any function relating to contaminated land. (Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)	Part IIA of the Environmental Protection Act 1990 (c43) and subordinate legislation under that part



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| <p>54. The discharge of any function relating to the control of pollution or the management of air quality.<br/>(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)</p> | <p>Pollution Prevention and Control Act 1999 (c 24);<br/>Pt IV of the Environment Act 1995 (c 25);<br/>Part 1 of the Environmental Protection Act, 1990 (c 43) and the Clean Air Act, 1993 (c 11)</p> |
| <p>55. The service of an abatement notice in respect of a statutory nuisance.</p>  | <p>Section 80(1) of the Environment Protection Act, 1990</p>  |
| <p>56. The inspection of the Authority's area to detect any statutory nuisance.<br/>(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)</p>                             | <p>Section 79 of the Environmental Protection Act, 1990.</p>  |
| <p>57. The investigation of any complaint as to the existence of a statutory nuisance.</p>   | <p>Section 79 of the Environmental Protection Act, 1990.</p>  |
| <p>58. The obtaining of particulars of persons interested in land.<br/>(Except to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders)</p>                                       | <p>Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976.</p>   |
| <p>59. The power to register motor salvage operators.</p>  | <p>Part I of the Vehicles (Crime) Act 2001 (c.3)</p>  |

**TERMS OF REFERENCE FOR PLANNING AND RIGHTS OF WAY COMMITTEE  
(known as Planning and Rights of Way Panel)**

**GENERAL**

- a. This Panel is a Committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972.
- b. The Council has arranged under Section 101(1) of that Act for the discharge by the Panel of such of the council's functions as are within the Panel's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Panel may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of Contract Standing Orders, Financial Regulations and Council Procedure Rules as amended from time to time including any Special Procedures drawn up and approved by the Head of Legal & Democratic Services in pursuance of Procedure Rule 26.2.

**TERMS OF REFERENCE**

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| 1. | To be consulted on the draft development plan.   |  |
| 2. | Power to determine application for planning permission   | Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8)   |
| 3. | Power to determine applications to develop land without compliance with conditions previously attached.                | Section 73 of the Town and Country Planning Act 1990   |
| 4. | Power to grant planning permission for development already carried out   | Section 73A of the Town and Country Planning Act 1990  |
| 5. | Power to decline to determine application for planning permission  | Section 70A of the Town and Country Planning Act 1990  |
| 6. | Duties relating to the making of determinations of planning applications   | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder |
| 7. | Power to determine application for planning permission made by a local authority, alone or jointly with another person | Section 316 of the Town and Country Planning Act 1990 and the Town and country Planning General Regulations 1992 (S.I. 1992/1492)  |

8.	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Parts 6, 7 ,11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)
9.	Power to enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
10.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
11.	Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
12.	Power to grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
13.	Power to authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
14.	Power to require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
15.	Power to serve a planning contravention notice, breach of condition notice or stop notice	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
16.	Power to issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990
17.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
18.	Power to determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10)
19.	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act
20.	Power to require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
21.	Power to determine application for listed building consent, and related powers	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas ) Act 1990 (c.9)
22.	Power to determine applications for conservation area consent	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas ) Act 1990, as applied by section 74(3) of that Act

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| 23. Duties relating to applications for listed building consent and conservation area consent  | Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97 |
| 24. Power to serve a building preservation notice, and related powers  | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 25. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area  | Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 26. Power to acquire a listed building in need of repair and to serve a repairs notice   | Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 27. Power to apply for an injunction in relation to a listed building  | Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990   |
| 28. Power to execute urgent works  | Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990  |
| 29. Power to issue licences authorising the use of land as a caravan site ("site licences")  | Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62)  |
| 30. Power to license the use of moveable dwellings and camping sites   | Section 269(1) of the Public Health Act 1936(c.49)  |
| 31. Power to register common land or town or village greens, except where the powers is exercisable solely for the purpose of giving effect to:  |   |
| (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to , the Acquisition of Land Act 1981 (c.67) or  | Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843)   |
| (b) an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict.c.118)  |   |
| 32. Power to register variation of rights of common  | Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)   |
| 33. The obtaining of information as to interests in land.<br>(Except to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders. | Section 330 of the Town and Country Planning Act, 1990.   |

34.	The making of agreements for the execution of highways works	Section 278 of the Highways Act, 1980 (c.66) substituted by the New Roads and Street Works Act, 1991 (c.22), Section 23
35.	Power to grant a street works licence	Section 50 of the New roads and Street Works Act 1991 (c.22)
36.	Power to permit deposit of builder's skip on highway	Section 139 of the Highways Act 1980 (c.66)
37.	Power to license planting, retention and maintenance of trees etc. in part of highway	Section 142 of the Highways Act 1980
38.	Power to authorise erection of stiles etc. on footpaths or bridleways	Section 147 of the highways Act 1980
39.	Power to license works in relation to buildings etc. which obstruct the highway	Section 169 of the highways Act 1980
40.	Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980
41.	Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980
42.	Power to restrict the placing of rails, beams, etc. over highways	Section 178 of the Highways Act 1980
43.	Power to consent to construction of cellars etc. under street	Section 179 of the Highways Act 1980 as amended by Section 22 of the Local Government (Miscellaneous Provisions) Act, 1982 (c.30)
44.	Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators	Section 180 of the Highways Act 1980
45.	Power to create footpath or bridleway by agreement	Section 25 of the Highways Act 1980 (c.66)
46.	Power to create footpaths and bridleways	Section 26 of the Highways Act 1980
47.	Duty to keep register of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980
48.	Power to stop up footpaths and bridleways	Section 118 of the Highways Act 1980
49.	Power to determine application for public path extinguishment order	Sections 118ZA and 118C(2) of the Highways Act 1980
50.	Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980
51.	Power to make a special extinguishment order	Section 118B of the Highways Act 1980
52.	Power to divert footpaths and bridleways	Section 119 of the Highways Act 1980
53.	Power to make a public path diversion order	Sections 119ZA and 119C(4) of the Highways Act 1980

54. Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980
55. Power to make a special diversion order	Section 119B of the Highways Act 1980
56. Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980
57. Power to make an SSSI diversion order	Section 119D of the Highways Act 1980
58. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980
59. Power to decline to determine certain applications	Section 121C of the Highways Act 1980
60. Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980
61. Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980
62. Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B(7) of the Highways Act 1980
63. Power to authorise temporary disturbance of surface of footpath or bridleway	Section 135 of the Highways Act 1980
64. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980
65. Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980
66. Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980
67. Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981 (c.67)
68. Duty to keep definitive map and statement under review	Section 53 of the Wildlife and Countryside Act 1981 (c.69)
69. Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
70. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981
71. Duty to reclassify roads used as public paths	Section 54 of the Wildlife and Countryside Act 1981
72. Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981
73. Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984 (c.38)

74. Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1981 (c.68)
75. Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990
76. Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990
77. Power to enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000 (c.37)
78. Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000
79. Power to make limestone pavement order	Section 34(2) of the Wildlife and Countryside Act 1981 (c.69)
80. Powers relating to the protection of important hedgerows	The Hedgerows Regulations 1997 (S.I. 1997/1160)
81. Powers relating to the preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892)
82. Unlawfully parked vehicles re the Common, Parks and Recreation Grounds	Section 58 & 59, Hampshire Act, 1983
83. Pedestrian Ways	Section 61, Hampshire Act 1983
84. Fire Precautions- Parking Places: safety requirements	Section 11, Hampshire Act 1983
85. Access for Fire Brigade	Section 12, Hampshire Act 1983
86. Fire precautions in certain large buildings.	Section 13, Hampshire Act 1983
87. Use of Mayflower Park for boat shows etc.	Section 60, Hampshire Act 1983
88. Prevention of obstruction of streets.	Section 68, Hampshire Act 1983
89. High hedges	Part 8, Anti-Social Behaviour Act 2003
90. Determination of Applications for Certificates of Alternative Development	Land Compensation Act 1961

## TERMS OF REFERENCE FOR GOVERNANCE COMMITTEE

### GENERAL

- a. This Committee is a committee of the Council appointed by the Council under the Local Government Act 1972
- b. Certain functions are delegated by this Committee to Officers. Full details may be found in Part 3 of the Council's Constitution
- c. Where a function or matter within the Committee's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- d. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal and Democratic Services in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

#### Standards, ethics and probity

1. To lead on the Council's duties under Chapter 7 Localism Act 2011 and to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Councillors and employees. The Committee's powers shall include responding to consultation documents and the promulgation of Codes of Conduct but the adoption and revisions to the local Members Code of Conduct shall be reserved to the Council.
2. To promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors and employees.
3. To lead on all aspects of Corporate Governance by promoting the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.
4. To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors and employees and on the Members Code of Conduct.
5. To be responsible for the Council's register of Members' interests and to receive reports from the Monitoring Officer ~~and Head of Legal and Democratic Services~~ on the operation of the register from time to time.
6. To be responsible for written guidance and advice on the operation of the system of declarations of Members' Interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.
7. To establish, monitor, approve and issue advice and guidance to Councillors on a system of dispensations to speak on, or participate in, matters in which they have interests and give dispensation in appropriate cases.
8. To exercise the functions of the Council in relation to the ethical framework, corporate governance and standards of conduct of Joint Committees and other bodies.



9. To establish a Standards Sub-Committee to investigate and determine appropriate action in respect of alleged breaches of the Members Code of Conduct.
10. To support the Monitoring Officer and Chief Financial Officer in their statutory roles and the issuing of guidance on them from time to time.
11. To receive regular reports on the performance of the Corporate Complaints process, Local Government Ombudsman referrals, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures as appropriate.

#### **Audit role**

12. To provide independent assurance on the adequacy of the risk management framework and the internal control and reporting environment, including (but not limited to) the reliability of the financial reporting process and the annual governance statement.
13. To be satisfied and provide assurance that appropriate action is being taken on risk and internal control related issues identified by the internal and external auditors and other review and inspection bodies.
14. To receive, and make recommendations on, such reports as are required in relation to all audit matters including the Annual Audit Plan.
15. The Committee shall specifically have responsibility for oversight of and provision of assurance on the following functions:
  - ensuring that Council assets are safeguarded;
  - maintaining proper accounting records;
  - ensuring the independence, objectivity and effectiveness of internal and external audit;
  - the arrangements made for cooperation between internal and external audit and other review bodies;
  - considering the reports of internal and external audit and other review and inspection bodies;
  - the scope and effectiveness of the internal control systems established by management to identify, assess, manage and monitor financial and non-financial risks (including measures to protect against, detect and respond to fraud).

### **TERMS OF REFERENCE FOR STANDARDS SUB-COMMITTEE**

1. To assess written allegations that a member or co-opted member (or former member or co-opted member) of the Council has failed, or may have failed, to comply with the Members Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enacted thereof and to administer sanctions where appropriate.
2. To grant dispensations to members under Section 33 Localism Act 2011 or any amendment or re-enacted thereof.

NB Reference to member, co-opted member or former member includes reference to former independent members of the Governance Committee and Church and Parent Governor representatives.

### **TERMS OF REFERENCE FOR STANDARDS APPEALS SUB-COMMITTEE**

1. To hear an appeal by any member where the Standards Sub Committee has found that the member has failed to comply with the Members Code of Conduct in accordance with Chapter 7 Localism Act 2011 or any amendment or re-enacted thereof and administer sanctions where appropriate

## **TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE**

### **GENERAL**

- a. This Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972.
- b. The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Committee's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal and Democratic Services in pursuance of Council Procedure Rule 26.2.

### **TERMS OF REFERENCE**

1. Approve a framework for the effective discharge by the Council of the statutory overview and scrutiny function by itself and its Scrutiny Panels;
2. Prepare and monitor a Scrutiny Programme, to be developed in consultation with members of Scrutiny Panels.
3. Appoint such sub-committees as it considers appropriate to fulfil the overview and scrutiny functions on behalf of the Council;
4. Where matters fall within the remit of more than one overview and scrutiny subcommittee, determine which of those sub-committees will assume responsibility for any particular issue and to resolve any issues of dispute of sub-committees.
5. To be responsible for the scrutiny of all corporate and resource management issues.
6. To exercise the power of call-in.
7. To undertake scrutiny of the Forward Plan.
8. To undertake regular monitoring of the Council's performance and budgets and to assess progress made in delivering services in conjunction with partners.
9. In accordance with the Police and Justice Act 2006 to engage as appropriate with the designated Responsible Authorities in respect of crime and disorder matters.
10. Consider, at least once a year, and make reports or recommendations to the local authority with regards to actions undertaken by the responsible authorities on the Safe City Partnership.
11. To receive matters raised through the Councillor Call to Action, including crime and disorder matters.

## SCRUTINY PANEL TERMS OF REFERENCE

### GENERAL

The Health Overview and Scrutiny Panel will have 6 scheduled meetings per year, with additional meetings organised as required. Meetings of Scrutiny Panel A and Scrutiny Panel will be scheduled to enable the Panels to undertake scrutiny inquiries.

### TERMS OF REFERENCE

#### Health Overview and Scrutiny Panel

1. To discharge all responsibilities of the Council for health overview and scrutiny, whether as a statutory duty or through the exercise of a power, including subject to formal guidance being issued from the Department of Health, the referral of issues to the Secretary of State.
2. To undertake the scrutiny of Adult Social Care issues in the City unless they are forward plan items. In such circumstances members of the Health Overview and Scrutiny Panel will be invited to the relevant Overview and Scrutiny Management Committee meeting where they are discussed.
3. To develop and agree the annual health and social care scrutiny work programme.
4. To scrutinise the development and implementation of the Joint Strategic Needs Assessment and Health and Wellbeing Strategy developed by the Health and Wellbeing Board.
5. To provide the membership of any joint committee established to respond to formal consultations by an NHS body on an issue which impacts the residents of more than one overview and scrutiny committee area.
6. To consider Councillor Calls for Action for health and social care matters.
7. To respond to proposals and consultations from NHS bodies in respect of substantial variations in service provision and any other major health consultation exercises.
8. Liaise with the Southampton LINK, and its successor body 'Healthwatch', and to respond to any matters brought to the attention of overview and scrutiny by the Southampton LINK and its' successor body 'Healthwatch'.
9. Provide a vehicle for the City Council's Overview & Scrutiny Management Committee to refer recommendations arising from panel inquiries relating to the City's health, care and well-being to Southampton's LINK, and its' successor body 'Healthwatch', for further monitoring.
10. Undertake inquiries relating to health and well-being issues in the city.

#### **Children and Families Scrutiny Panel**

1. To undertake the scrutiny of Children and Families Services in the City, including the Multi Agency Safeguarding Hub (MASH), Early Help, Specialist & Core Service, looked after children, education and early years and youth offending services, unless they are forward plan items. In such circumstances members of the Children and Families Scrutiny Panel will be invited to the relevant Overview and Scrutiny Management Committee meeting where they are discussed.

Scrutiny of Children and Families Services in the City to include:

2. Monitoring the implementation and challenging the progress of the Council's action plan to address the recommendations made by Ofsted following their inspection of Children's Services in Southampton and review of Southampton Local Safeguarding Children Board (LSCB) in July 2014.
3. Regular scrutiny of the performance of multi-agency arrangements for the provision of early help and services to children and their families.
4. Scrutiny of early years and education including the implementation of the Vision for Learning 2014 – 2024.
5. Scrutiny of the development and implementation of the Youth Justice Strategy developed by the Youth Offending Board.
6. Referring issues to the Chair of the LSCB and the Corporate Parenting Committee.

**Scrutiny Panel**

1. Undertake Inquiries as directed by the Overview and Scrutiny Management Committee.

**TERMS OF REFERENCE FOR CHIEF OFFICER EMPLOYMENT SUB-COMMITTEE  
(known as Chief Officer Employment Panel)**

**GENERAL**

- a. This Panel is a sub-committee of the Employment Committee (Panel) appointed by that Committee under the Local Government Act 1972.
- b. The Committee has arranged under Section 101(1) of that Act for the discharge by the Panel of such of the Council's functions as are within the Panel's terms of reference (set out below).
- c. The exercise of any function or matter within the Panel's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2.

**TERMS OF REFERENCE**

Power to appoint and dismiss the Head of Paid Service and statutory and non-statutory Chief Officers in accordance with the Council's Officer Employment Procedure Rules and the resolution of Employment and Appeals Panel of 16<sup>th</sup> April 2002.

## TERMS OF REFERENCE FOR HEALTH AND WELLBEING BOARD

### GENERAL

- a) The Health and Wellbeing Board is a committee of the Council under S102 (1) of the Local Government Act 1972.
- b) The Council has arranged under S101 of that Act for the discharge by the Board of such functions as are set out in the terms of reference set out below.
- c) Certain functions under S196 (2) of the Health and Social Care Act 2012 may be delegated by the Board to officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Democratic Services Manager. Other matters falling within these Terms of Reference may be delegated to a Sub Committee of the Board.
- d) Where a function or matter within the Board's competence has been delegated to an officer or a sub-committee, the Board may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e) The exercise of any function or matter within the Council's competencies always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal and Democratic Services in pursuance of Council Procedure Rule 26.2. A Special Procedure giving effect to The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 has been approved in accordance with Council Procedure Rule 26.2. The Special Procedure disapplies the provisions of the Local Government and Housing Act 1989 relating to the political proportionality on committees and sub-committees and providing that a person who is a member of the Board shall not be treated as a non-voting member unless the full Council directs otherwise, together with other voting and ancillary matters has been approved in accordance with Council Procedure Rule 26.2.

### TERMS OF REFERENCE

1. Section 194 (2) (a) of the Health and Social Care Act 2012 requires that the minimum membership of the Health and Wellbeing Board shall be:
  - 5 elected Members of Southampton City Council (to be appointed by the Leader of the Council having had due regard to the recommendations of the Health & Well Being Board)
  - The Director of People (as Director for Adults and Children's Services)
  - The Director of Public Health
  - A representative of Healthwatch
  - A representative from the NHS Commissioning Board's Wessex Area team
  - A representative from the Southampton Clinical Commissioning Group
  - Such other persons as the Council considers appropriate.

The actual membership and composition of the Board will be determined by Council and reviewed on an annual basis.

The Board shall:

2. Appoint such sub-committees, working groups or time limited groups as it considers appropriate to fulfil the Health and Wellbeing functions on behalf of the Council.

3. For the purpose of advancing the health and wellbeing of the people in its area; encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner.
4. Provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under S75 of the National Health Service Act 2006 in connection with the provision of such services.
5. Encourage persons who arrange for the provision of any health related services in its areas to work closely with the Health and Wellbeing Board.
6. Encourage persons who arrange for the provision of any health or social care services in its areas and persons who arrange for the provision of any health related services in its area to work closely together.
7. Exercise the functions of a Local Authority and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007.
8. Exercise any functions that are exercisable by the Authority to promote or advance health and wellbeing not otherwise reserved to Council or the Executive.
9. Provide opinion on whether the Local Authority is discharging its duty under section 116B of the 2007 Act.
10. The functions referred to at 8 above do not apply to the functions of the Authority by virtue of Section 244 of the National Health Service Act 2006.



### SCHEDULE 3

#### MEMBERSHIP OF THE EXECUTIVE AND COMMITTEES OF THE COUNCIL

##### **MEMBER APPOINTMENTS MADE BY COUNCIL**

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

The Executive shall comprise:

Leader	Councillor Simon Letts
Health and Adult Social Care	Councillor Dave Shields
Children's Safeguarding	Councillor Mark Chaloner
Communities	Councillor Satvir Kaur
Education & Change	Councillor Daniel Jeffery
Environment and Transport	Councillor Jacqui Rayment
Housing and Sustainability	Councillor Warwick Payne
Resources & Leisure	Councillor Stephen Barnes-Andrews

##### **COMMITTEES, SUB-COMMITTEES AND PANELS**

Chief Officer Employment Panel  
Employment and Appeals Panel  
Governance Committee  
Licensing Committee  
    Licensing & Gambling Sub-Committee  
    Licensing (General) Sub-Committee  
Overview and Scrutiny Management Committee  
Planning and Rights of Way Panel  
Standards Sub-Committee  
    Standards (Appeals) Sub-Committee

##### **SCRUTINY PANELS**

Health Overview & Scrutiny Panel  
Children & Families Scrutiny Panel  
Scrutiny Panel

Details of the political make-up and membership of the above Committees and Panels can be found on Cityweb at:

<http://www.southampton.gov.uk/modernGov/ieDocHome.aspx?bcr=1>

##### **PARTNERSHIPS**

South East Employers  
South East Employers (Local Democracy Network)  
Partnership for Urban South Hampshire <http://www.push.gov.uk/>

## **JOINT COMMITTEES & PANELS WITH OTHER AUTHORITIES**

Hampshire Fire and Rescue Authority  
Police & Crime Panel  
Health and Well-Being Board

Details of the political make-up and membership of the above Partnership and Joint Committees can be found on Cityweb at:

<http://www.southampton.gov.uk/modernGov/mgListOutsideBodies.aspx?bcr=1>

## **MEMBER APPOINTMENTS MADE BY CABINET TO:**

### **REGISTERED CHARITIES, TRUSTS, CORPORATIONS & COMPANIES**

F W Smith Bequest Purchasing Committee  
Hampshire British Legion Poppy Appeal  
Merchant Navy Welfare Board – Southern Ports Welfare Committee  
Nuffield Theatre – Southampton Theatre Trust Ltd Board  
Solent Skies – Board of Directors  
Southampton Cultural Development Trust  
Southampton MENCAP  
Southern Health NHS Foundation Trust  
Spectrum – Western Challenge (Hampshire Community Forum)  
Thorner's Homes  
University Hospital Southampton NHS Foundation Trust  
Wulfris Educational Foundation, Southampton

### **STATUTORY COMMITTEES, PANELS & GROUPS**

Adoption and Permanence Panel 1  
Adoption and Permanence Panel 2  
Corporate Parenting  
Environmental Agency Stakeholder Board for Test and Itchen CAMS  
Fostering Panel 1 and 2  
Hampshire Countryside Access Forum  
Safe City Partnership  
School Organisation Committee  
Schools Forum  
Southampton Children and Young People's Trust Partnership Board  
Standing Advisory Committee of Religious Education (SACRE)

### **PARTNERSHIPS**

Association of Port Health Authorities  
Bereavement Services Liaison Group  
Business Solent  
Community Champions (Older Persons, Design)  
Early Years Development and Childcare Partnership  
Enterprise First  
Hampshire Senate  
LGA – Coastal Issues Special Interest Group  
Local Government Association Urban Commission  
Local Government Information Unit  
Port Consultative Committee  
Project Integra – Policy Review and Scrutiny Committee  
Project Integra Management Board  
Radian Housing – Solent Area Panel  
Safer Roads Partnership for Hampshire & the Isle of Wight Executive  
Solent European Maritime Sites  
Solent Local Enterprise Partnership

Solent Transport Executive  
Southampton Adult Mental Partnership Board  
Southampton Energy Partnership  
Southampton Heritage & Arts People (SHAPE)  
Southampton Housing Partnership  
Southampton International Airport Consultative Committee  
Southampton Record Series  
Southampton Voluntary Services  
Southern Inshore Fisheries and Conservation Authority  
Standing Conference on Problems Associated with the Coastline (SCOPAC)  
University of Southampton (Court)

**INTERNAL AD HOC**

Member User Group

**JOINT COMMITTEES & PANELS WITH OTHER AUTHORITIES**

Hampshire County Council's Pension Fund Panel  
Major Cities Housing Group  
Partnership for Urban South Hampshire

Details can be found on Cityweb at:

<http://www.southampton.gov.uk/modernGov/mgListOutsideBodies.aspx?bcr=1>

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## PART 4: RULES OF PROCEDURE

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## 1. INTRODUCTION

### 1.1 Interpretation

- (a) Throughout these Council Procedure Rules the following words and expressions shall have the under-mentioned meanings respectively assigned to them:-

**"Cabinet Member"** shall mean a member of the Executive appointed by the Leader in accordance with the Council's Constitution.

**"Chief Financial Officer"** shall mean the officer holding the post of Chief Financial Officer of the City Council who is also designated as the "Chief Financial Officer" responsible for the purposes of Section 151 Local Government Act 1972, Section 73 Local Government Act, 1985, and Section 112 Local Government Act 1988 for monitoring the Council's financial affairs.

**"Clear Day"** in relation to a meeting excludes the day on which the summons or agenda for a meeting was published, the day on which the meeting was or is to be held and in this context "Day" shall mean a day other than a Saturday or a Sunday, or a day which is a public or Bank Holiday.

**"Committee"** shall mean a Committee of the Council.

**"Constitution"** shall mean the Council's Constitution as approved by the Council in accordance with the 2000 Act.

**"Council"** shall mean Southampton City Council acting through the Full Council, save where applied to a Committee or Sub-Committee where it shall mean that Committee or Sub-Committee.

**"Executive"** shall mean the Executive of the Council as set out in the Constitution and defined by the 2000 Act.

**"Head of Paid Service"** shall mean the officer holding the post of Chief Executive in the City Council who is also designated as the Head of Paid Service by virtue of Section 4 Local Government and Housing Act 1989.

**"Leader"** shall mean the Leader of the Council, elected by the Council in accordance with the Constitution and the 2000 Act.

**"Mayor"** shall mean the Mayor of the Council or the Person Presiding.

**"Meeting"** shall mean a meeting of the Full Council or in relation to a Committee or Sub-Committee, a meeting of that body.

**"Member"** shall mean in relation to a meeting of the Council, a Councillor, and in relation to a Committee or Sub-Committee shall mean a member of that Committee or Sub-Committee, whether a Councillor or a person who is not a Councillor but who is appointed to be a member of the Committee or Sub-Committee under Section 102 of the 1972 Act.

**"Motion"** includes a recommendation contained in any report concerning an item of business for a meeting and a new motion.

**"Panel"** is the description and label applied to a regulatory Committee or Sub-Committee of the Council.

**"Person Presiding"** shall mean the person appointed or entitled to preside at any meeting including the Chair or Vice-Chair where either presides.

**"Protocol"** means a protocol approved by the Head of Legal and Democratic Services under these Council Procedure Rules.

**"Proposition"** shall include "Motion".

**"Rule"** shall mean a Council Procedure Rule.

**"Special Procedure"** means a procedure approved by the Head of Legal and Democratic Services under these Council Procedure Rules.

**"Specialist Committee"** means a Committee or Sub-Committee to which a Special Procedure applies.

**"Summons"** shall mean the summons for a meeting, or in relation to a Council Procedure Rule applied to a Committee or Sub-Committee, shall mean the agenda for the meeting.

**"Sub-Committee"** shall mean a Sub-Committee of a Committee of the Council.

**"Terms of Reference"** shall mean the terms of reference of the Committees, and Sub-Committees as varied from time to time.

**"Urgent"** means that the matter giving rise to the urgency must be unforeseeable (in an objective sense) and is not attributable to a failing on the part of the Council (and similar expressions shall be construed accordingly).

**"Vice-Chair"** shall mean the Vice-Chair of a Committee or Sub-Committee, and shall encompass the term "Person Presiding" where the Vice-Chair does not preside.

**"Voting Member"** means either a Councillor or other person appointed as a member of a Committee or Sub-Committee under Section 102 of the 1972 Act who is entitled by law to vote at a meeting of the Committee or Sub-Committee.

**"1972 Act"** shall mean the Local Government Act 1972.

**"1989 Act"** shall mean the Local Government and Housing Act 1989.

**"2000 Act"** shall mean the Local Government Act 2000.

- (b) Unless the context otherwise requires, the singular includes the plural and the plural the singular.
- (c) Any reference in a Council Procedure Rule to a numbered or lettered paragraph is, unless the context otherwise requires, a reference to the paragraph of that Council Procedure Rule.

## 1.2. Council Procedure Rules

- a. Subject to paragraphs (b), (c) and (h), only the Council may vary, revoke, add to or suspend these Council Procedure Rules.
- b. This Council Procedure Rule and Council Procedure Rule 2.1 (The Annual Meeting), 3 (Minutes), 6 (Notice and Summons to Meetings) and 17 (Voting), are not capable of being suspended.
- c. Any of the other Council Procedure Rules may be suspended by the Council provided that:
  - i. a motion is given with due notice; or

- ii. notice of intention to move such suspension is embodied within a minute or report referred to in the Summons.
  - d. No Council Procedure Rule shall be suspended, revoked or varied by the Council without the consent of the majority of Members present and voting, and there shall be no speeches other than by the mover of the motion whose speech shall be confined to the reasons for moving the suspension of the Council Procedure Rule(s) in question, and no discussion on a motion to suspend a Council Procedure Rule.
  - e. A printed copy of these Council Procedure Rules shall be given by the Head of Legal and Democratic Services to every Member upon acceptance of office.
  - f. Any proposal to permanently alter these Council Procedure Rules, other than a motion to implement a recommendation of the Governance Committee, shall be in the form of a motion instructing the Governance Committee to report upon such proposals. Any such motion upon being seconded shall be put to the vote without discussion. The Governance Committee shall report to the next ordinary Council meeting upon any matter referred to it under this Council Procedure Rule.
  - g. These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.
  - h. Subject to Council Procedure Rule 26(2), a Special Procedure or Protocol may vary, revoke, add to or suspend these Council Procedure Rules.
  - i. Where any step or action under these Council Procedure Rules is prescribed to be performed by a designated officer, that officer may nominate or authorise another officer in his/her place.
- 1.3 Save as in respect of any notice that has to be signed to be valid (Council Procedure Rule 13.1(a) and 13.1(d)) any other notice may be given by email to the address as prescribed by the Head of Legal and Democratic Services as designated for the receipt of such communications.

**1.4 Mayor's Decision Final**

The Mayor's ruling on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. The Mayor may, from time to time, issue guidance as to how s/he will discharge his/her responsibility in chairing Full Council.

**2. MEETINGS OF THE COUNCIL**

**2.1 The Annual Meeting**

- a. Timing and business

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



The annual meeting will:

- i. elect a person to preside if the Mayor is not present;
  - ii. elect the Mayor;
  - iii. elect the Sheriff;
  - iv. approve the minutes of the last meeting;
  - v. receive any announcements or reports from the Head of the Paid Service, Monitoring Officer, Chief Financial Officer or Mayor;
  - vi. elect the Leader;
  - vii. appoint the Overview and Scrutiny Management Committee, the Governance Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3, Table 1 of this Constitution);
  - viii. agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Table 3 of this Constitution);
  - ix. approve a programme of ordinary meetings of the Council for the year; and
  - x. consider any business set out in the notice convening the meeting.
- b. Selection of Councillors on Committees and Outside Bodies
- At the annual meeting, the council meeting will:
- i. decide which committees to establish for the municipal year;
  - ii. decide the size and terms of reference for those committees;
  - iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
  - iv. receive nominations of Councillors to serve on each committee and outside body; and
  - v. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- c. Sub-Committees may be appointed by a special meeting of Committees held immediately following their appointment during the proceedings of annual, Council, subject to the powers of Committees to appoint Sub-Committees, Members to those Sub-Committees and Chairs and Vice-Chairs.

## 2.2 Ordinary Meetings

- a. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:
  - i. elect a person to preside if the Mayor and Sheriff are not present;
  - ii. approve the minutes of the last meeting;
  - iii. matters arising from the minutes of the last meeting;

- iv. receive any declarations of interest from Members;
  - v. receive any announcements or reports from the Mayor, Leader, the Head of Paid Service, Monitoring Officer or Chief Financial Officer;
  - vi. receive deputations, petitions and requests from and provide answer to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
  - vii. deal with any business from the last Council meeting;
  - viii. receive reports from the Executive and receive questions and answers on any of those reports;
  - ix. consider motions;
  - x. receive questions on notice to any chair or the Mayor;
  - xi. consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework;
  - xii. receive reports about and receive questions and answers on the business of joint arrangements and external organisations; and
  - xiii. receive reports from Overview and Scrutiny and receive questions and answers on any of those reports.
- b. The order of business in this Council Procedure Rule may only be varied by:
- i. direction of the Mayor, made with the unanimous consent of the Members present; or
  - ii. a resolution of the Council, moved, seconded and put without comment but not so as to preclude the consideration of any business required by law or to override the provisions of Council Procedure Rule 3.

However, the content of the Summons may be differentiated and subject to any legal requirements, the order and nature of business may vary from meeting to meeting.

c. Matters brought forward by the Mayor

The Mayor may bring forward without notice at any meeting any business judged by the Mayor to be sufficiently urgent to warrant so doing and such business shall have precedence over any notice of motion on the summons. The special circumstances which warrant inclusion of an item without notice shall be specified in the minutes.

## 2.3 **Extraordinary Meetings**

a. Calling extraordinary meetings

Those listed below may request the Head of Legal and Democratic Services to call Council meetings in addition to ordinary meetings:

- i. the Council by resolution;
- ii. the Mayor of the Council;
- iii. The Leader;
- iv. the Chief Executive;

- v. the Monitoring Officer;
- vi. the Chief Financial Officer; and
- vii. any five Members of the Council if they have signed a requisition presented to the Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

b. Business

The Head of Legal and Democratic Services shall, in calling an Extraordinary Meeting of the Council, restrict the business on the summons to that required by law, any matter or matters that the Chief Executive, Monitoring Officer or Chief Financial Officer wish to raise and the business for which the Extraordinary Meeting has been called.

Timing and Logistics of Extraordinary Meetings

- c. The Head of Legal and Democratic Services shall determine the time and day of any Extraordinary Meeting in accordance with the Constitution and following consultation with the group leaders, but shall endeavour to arrange any such meeting to be held, where possible, at 6:00 pm on a Wednesday.
- d. The Mayor shall, following consultation with the Group Leaders, subject to any legal obligations and provided that the Head of Legal and Democratic Services is satisfied as to its legality, be entitled to vary any process or procedure at Full Council and/or introduce new procedures or processes for the purpose of experimenting or trialing new initiatives.
- e. If, following either annual elections or a by election, the political control of the authority changes, as a direct result no meetings of Council can be called, or the Urgent Business Sub Committee convened to enable significant decisions to be taken until the next meeting of Council.
- f. Such changes will not affect the Council's ability to react to any time limited or emergency matters, in the rare event that they should they arise as there are existing powers under the Officer Scheme of Delegation to permit the Chief Executive, ~~Director of Corporate Services~~ or Head of Legal and Democratic Services to act."

2.4 **Budget Meeting**

The Budget Meeting, which shall commence at 2:00 pm, shall transact such business as:

- a. in the opinion of the Chief Financial Officer, is necessary to enable the Council to comply with its legal obligations in terms of setting a budget and other legal matters associated with the determination of the Council Tax, etc;
- b. is necessary to approve, review, refresh or otherwise consider in the opinion of the Chief Executive, the Medium Term Plan; and
- c. any other business which the Chief Executive, Chief Financial Officer or Monitoring Officer consider should be placed before Members.

### **3. MINUTES**

- 3.1 Minutes of every meeting of the Council, of any Committee or of any Sub-Committee shall be submitted to, and signed at that meeting or at the next following meeting of the body concerned.
- 3.2 The Mayor shall put the question that the minutes submitted to the meeting be approved as a correct record of that meeting, or of a specified former meeting, as the case may be.
- 3.3 Any question on their accuracy shall be raised by motion, and shall be duly seconded. If no such question is raised, or if it is raised, then as soon as it has been dealt with, the Mayor shall sign the minutes (“the Approved Minutes”).
- 3.4 The Mayor shall ask if there are any matters arising upon the Approved Minutes, pursuant to which any member may ask as to the current position or progress made on any item contained in the Approved Minutes. The Mayor shall avoid any debate or discussion that could be construed as attempting to change or vary a previous decision and shall not allow any debate or discussion to transgress the statutory rule that only business specified in the Council Summons may be disposed of at a Council meeting. Information provided under this Rule shall not be minuted.
- 3.5 Where in relation to any meeting of the Council the next such meeting is a meeting called under Paragraph 3 (extraordinary meetings) of Schedule 12 to the 1972 Act, the next following meeting of the Council (being a meeting called otherwise than under that Paragraph of the 1972 Act) shall be treated as a suitable meeting for the purposes of Paragraphs 41(1) and (2) (signing of minutes) of that Schedule.

### **4. APPOINTMENT OF MEMBERS TO COMMITTEES AND SUB-COMMITTEES**

#### **4.1 Allocation**

The Council will allocate seats on the Committees and Sub-Committees of the Council in accordance with the 1989 Act and secondary legislation.

#### **4.2 Appointment of Members to Seats**

The Head of Legal and Democratic Services shall be the Proper Officer for the purposes of the 1989 Act and associated secondary legislation in respect of appointing members to seats on behalf of political groups in accordance with the wishes of political groups as prescribed by the law.

#### **4.3 Replacement Members on Committees and Sub-Committees**

In the event that a member of a Committee or Sub-Committee resigns from that Committee or Sub-Committee, the Head of Legal and Democratic Services shall be the Proper Officer for the purposes of the 1989 Act and secondary legislation for the purposes of appointing a replacement member, in accordance with the wishes of the political group to whom that seat has been allocated.

#### **4.4 Procedure**

The Head of Legal and Democratic Services shall, following consultation with the Group Leaders, issue such procedures, protocols and other guidance associated with this Council Procedure Rule as s/he deems necessary.

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

The time and place of meetings will be determined by the Head of Legal and Democratic Services and notified in the summons.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Head of Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five Clear Days before a meeting, the Head of Legal and Democratic Services will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. CHAIR OF MEETING**

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

## **8. QUORUM**

The quorum of a meeting will be one third of the whole number of Members. During any meeting, the Mayor shall conduct a count if any Member present so requests or if the Mayor so determines of his/her own volition. If the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. DURATION OF MEETING**

### **9.1 Interruption of the meeting**

- a. At a time when a period of not less than four hours excluding adjournments has elapsed since the commencement of a meeting of the Council a Member of the Council may move, without comment, that the meeting shall end at a time to be specified in the motion;
- b. The Mayor may refuse to accept the motion and must do so if a similar motion has been rejected earlier in the same meeting;
- c. If the motion is accepted, it shall be seconded and put without comment;

### **9.2 Motions and recommendations not dealt with**

If the motion is passed, when the time specified arrives, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote(s) will be taken in the usual way.

### **9.3 Recorded vote**

If a recorded vote is called for during this process it will be taken immediately.

9.4 **Motions which may be moved**

During the process set out in Rules 9.1 – 9.3, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

9.5 **Close of the meeting**

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

9.6 **Presumption in favour of meetings ending by 6:30 pm**

There is a presumption in favour of all meetings of the Council, Committees and Sub-Committees that start at 2:00 pm will finish by 6:30 pm. When a meeting reaches that time, any member of the Council, Committee or Sub-Committee may move, without comment, that the meeting shall end. If the motion is accepted and seconded, it shall be put without comment and if passed, if there are any other motions or recommendations on the agenda that have not been dealt with, the Mayor or person presiding may determine either to deal with them in accordance with this Council Procedure Rule, or to defer remaining business to the next meeting, but in doing so shall take particular account of any advice from the Chief Executive, Chief Financial Officer and/or Monitoring Officer as to any business that, in their view, the Council or the meeting of the Council should determine at that meeting. In the event of a motion being put to the meeting under this Council Procedure Rule, it will be necessary for two thirds of the members present and voting at the meeting to support a proposal that the meeting should carry on for the meeting to proceed beyond 6:30 pm.

**10. PETITIONS, DEPUTATIONS AND QUESTIONS BY THE PUBLIC**

10.1 **Petitions**

Petitions shall be managed in accordance with the Petition Scheme set out in Part 11 of this Constitution save as provided elsewhere within the Constitution or as provided by law. At a meeting of the Council any Member or member of the public may present a petition which is submitted in accordance with the Council's scheme for handling petitions as annexed to Part 11 of this Constitution.

10.2 **Action**

- a. Petitions containing 1500 signatures or more (a qualifying petition) will require a debate at a Council meeting;
- b. Petitions with less than 1500 signatories (non-qualifying) shall be presented to the Council meeting and be received without discussion and shall be included on the agenda for the next available meeting of the Cabinet. The Member of the Council or member of the public presenting the petition shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme;
- c. Petitions containing a minimum of 750 signatures but less than 1500 signatures and requesting a senior officer to give evidence will be referred to a public meeting of the Overview and Scrutiny Committee in the first instance;
- d. Petitions with more than 50 signatories will be treated as a petition that requires a response in accordance with the Council's Scheme for Handling Petitions; and
- e. The Council will take a more flexible approach on a case by case basis in responding to Petitions with less than 50 signatories.

### 10.3 **Presentation**

The presentation of non qualifying petitions shall be confined to reading out, or summarising the petition and indicating the number and description of the signatories. Petitions shall be presented in the order in which notice of them is received by the Mayor.

### 10.4 **Debate on Petitions**

A qualifying petition will require a debate at Full Council, if timescales permit, except where the petition is asking for a senior officer to give evidence. Where timescales do not allow a debate at Full Council, the matter will be referred to the first available meeting of the appropriate decision-maker or relevant committee. The length of debate shall be at the discretion of the Mayor and in accordance with the Council's procedure rules, after which a vote will be put.

### 10.5 **Response to Petitions**

The Council will decide how to respond to the petition and shall decide either :

- a. To take the action the petition requests;
- b. Not to take the action the petition requests for reasons stated in the debate;
- c. To commission further investigation into the matter prior to consideration at a future meeting of the Council, which may include holding an inquiry or public meeting, commissioning research or reference to a particular committee or body for their views;
- d. To refer the petition to Cabinet or the relevant Cabinet Member meeting where the matter relates to an executive function, in which case the Council may make recommendations to the relevant executive decision.

### 10.6 **Officer Evidence**

The senior officers to be called to give evidence at a public meeting under section 16 Local Democracy, Economic Development and Construction Act 2009 and pursuant to the Council's scheme for handling petitions are:

- The Chief Executive
- Directors

### 10.7 **Deputations**

- a. Persons wishing to make a deputation to the Council shall give at least seven Clear Days notice in writing to the Head of Legal and Democratic Services explaining the subject of the deputation, unless in the opinion of the Mayor the matter is one of significance and urgency, such that it would not have been possible for the above timetable to be complied with. In such circumstances the Mayor may, at his or her sole discretion, either permit the deputation to be heard or alternatively ask Council by vote without discussion to determine whether it wishes the deputation to be heard. All requests shall be referred to the Mayor for consideration. The Mayor shall have the discretion to reject or refuse any request, or may determine that such a request should be redirected to the Executive, a committee or sub-committee of the Council or, by agreement, a third party (eg a partner). Petitions presented as part of or with a deputation will be dealt with in accordance with the provisions of the Council's Constitution and Scheme for Handling Petitions.
- b. A deputation to be received by the Council shall be read by the Head of Legal and Democratic Services or other officer, and immediately after having done so, any proposal to receive the person or persons or the deputation shall be

formally moved and seconded without discussion and shall be put to the vote. If the motion is carried, the person or persons shall be conducted into the meeting and shall present their deputation.

- c. A deputation may comprise between one and three persons all of whom may address the Council. The deputation shall not exceed seven minutes in duration, such time to include any time taken by the deputation to read any petition or other document.

If in the view of the Mayor the deputation is duplicatory or overlaps with other deputation(s) to be considered at the same meeting, the Mayor may move that the deputations be consolidated and the time limit for the deputation varied accordingly.

- d. Subject to this Council Procedure Rule, the Head of Legal and Democratic Services shall deal with requests for deputations in accordance with the following:

- i. **Where the issue is the subject of a recommendation or notice of motion to the next meeting of the Council**

The request shall be placed on the agenda for that Council meeting and the Council shall be asked whether it is willing to receive the deputation.

When a deputation has been received by the Council, there shall be no discussion on the points raised and the matter shall stand deferred until the relevant recommendation or notice of motion is presented to the Council.

- ii. **Where the issue is the subject of a previous deputation of the Council within the previous six months and is not covered by (a) above**

The deputation shall not be entertained by the Council, when the Council has considered a previous deputation within the previous six months.

- iii. **Where the issue is not before the Council and has not been resolved upon in the previous six months**

The request shall be placed on the agenda for that Council meeting and the Council shall be asked if it is willing to receive the deputation.

When a deputation has been received by the Council, the Mayor shall refer the matter to the Leader or appropriate Cabinet Member for a response. In the absolute discretion of the Mayor, Members may thereafter be permitted to comment or ask questions in relation to the Leader or Cabinet Member's response. Where the Mayor permits such questions or responses to be raised, the Mayor shall allow the Leader or appropriate Cabinet Member a right of reply at the end of the debate on the deputation.

- iv. **Where**

- a. the issue is within the terms of reference of a Specialist Committee; or
- b. the issue is or relates to matters of a quasi-judicial nature; or
- c. where the issue is defamatory, frivolous or offensive; or



- d. where the issue refers to legal proceedings being taken or being anticipated by or against the Council;
- e. where the issue relates to the provision of personal (eg a care package, housing) services; or
- f. where the depute has a commercial or financial interest in the issue

the deputation shall not be entertained and the depute shall be advised accordingly by the Head of Legal and Democratic Services.

## 10.8 Questions

- a. General  
Members of the public (who are not Councillors or Officers) may ask questions of the Mayor, Chairs of Committees and Members of the Executive at ordinary meetings of the Council.
- b. Order of questions  
Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.
- c. Notice of questions  
A question may only be asked if notice has been given by delivering it in writing to the Head of Legal and Democratic Services no later than midday seven Clear Days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Executive to whom it is to be put.
- d. Number of questions  
At any one meeting no person may submit more than three (3) questions and no more than three (3) such questions may be asked on behalf of one organisation.
- e. Scope of questions  
The Head of Legal and Democratic Services may reject a question if it:
  - i. is within the terms of reference of a Specialist Committee; or
  - ii. is or relates to matters of a quasi-judicial nature; or
  - iii. is defamatory, frivolous or offensive; or
  - iv. refers to legal proceedings being taken or being anticipated by or against the Council; or
  - v. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - vi. requires the disclosure of confidential or exempt information; or
  - vii. relates to the provision of personal (e.g. a care package) services; or
  - viii. where the questioner has a commercial or financial interest in the issue

If rejected, the questioner shall be advised accordingly by the Head of Legal and Democratic Services.

- f. Record of questions  
The Head of Legal and Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions to be asked will be

circulated to all Members and will be made available to the public attending the meeting.

- g. Asking the question at the meeting  
The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.
- h. Supplemental question  
A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 10.4.
- i. Written answers  
Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.
- j. Reference of question to the Executive or a committee  
Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

#### 10.9 **Representations on an Item of Business**

At the sole discretion of the Mayor, members of the public may be invited to address the Council, a Committee or Sub-Committee on any report in which they have a genuine or relevant interest. This includes (but is not limited to) the presentation of petitions by the public.

#### 10.10 **Application and Variation of this Council Procedure Rule**

The Head of Legal and Democratic Services, may, at his/her discretion, in exceptional circumstances, vary the procedure set out in this Council Procedure Rule and a Special Procedure or Protocol may regulate whether and the manner in which representations by Members, officers of the Council or other organisations and individuals may be made.

### 11. **QUESTIONS BY MEMBERS**

#### 11.1 **On reports of the business of the Executive**

Subject to Rule 11.4, a Member of the Council may ask the Leader or Cabinet Member any question on notice during the Report of the Executive when that item of business is under consideration by the Council.

#### 11.2 **Questions to the Mayor or Chairs**

Subject to Rule 11.4, a Member of the Council may ask:

- i. the Mayor;
- ii. the Chair of any committee or sub-committee

a question on any matter related to their role, responsibilities and/or office.

**11.3 Questions on notice at committees and sub-committees**

Subject to Rule 11.4, a Member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that committee or sub-committee.

**11.4 Notice of questions**

A Member may only ask a question under Rule 11.1, 11.2 or 11.3 if:

- a. the question is given in writing to the Head of Legal and Democratic Services by 12:00 noon on the Thursday of the week preceding the Council meeting (of if the Council meeting is held on a day other than a Wednesday, by 12:00 noon three Clear Days before the meeting). The Head of Legal and Democratic Services will acknowledge receipt of such questions; or
- b. if the question relates to urgent matters, they have the consent of the Mayor and the content of the question is given to the Head of Legal and Democratic Services prior to the commencement of the meeting.

**11.5 Form of Response**

An answer may take the form of:

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

**11.6 Transferring the Response**

Every question shall be put and answered without discussion, but the person to whom a question has been put may ask another Member to respond or may decline to answer.

**11.7 Supplementary question**

Any Member, following a question asked under Rules 11.1, 11.2 or 11.3 may ask one or more supplementary questions without notice to the Member to whom the first question was asked at the discretion of the Mayor and subject to Rule 12. The supplementary questions must arise directly out of the original question or the reply.

**11.8 Written Answers**

On request from the Member asking a question, a brief summary of key points in an oral answer shall be provided within 10 working days.

**11.9 Record of Questions and Answers on Notice at Full Council**

Questions asked on Notice at Full Council under Rule 11.1 or 11.2 will be recorded in the minutes, as will any answer. For the avoidance of doubt, neither supplementary questions nor answers shall be recorded. Where a verbal answer is given to a question asked under Rule 11.1 or 11.2, the precise wording of the answer to be included in the minutes shall be agreed with the Member giving the response.

## **12. EXECUTIVE BUSINESS**

- 12.1 The Leader shall prepare a Report of the Business of the Executive for each ordinary meeting of the Council. In presenting the report, the Executive shall have seven minutes to make any statements that they wish, either relating to the report before Council or in relation to any other item, topic or subject that they feel should be drawn to the attention of Council.
- 12.2 Following the presentation of the Report of the Business of the Executive, any member may ask a question of the Leader or a Cabinet Member arising from either the written report or a verbal statement made by a member of the Executive provided that the question is not one which is to be put under Council Procedure Rule 12.3. This item of business shall not last longer than eight minutes unless in the view of the Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Mayor shall specify the duration of any extension.”
- 12.3 Following the presentation of the report and questions arising on that, the Mayor shall, subject to Rule 12.6, call Members to ask questions for which due notice has been given of the Leader or a Cabinet Member submitted pursuant to Rule 11.1.
- 12.4 Where possible, the answer to the question shall be made available in writing to Members and the public prior to the meeting and, in that case, the Executive Member shall not read the answer out in full.
- 12.5 Following any question asked pursuant to Rule 12.3, subject to Rule 12.6, any Member may ask one or more supplementary questions provided the supplementary question arises directly out of the original question or reply.
- 12.6 The Mayor, in his/her absolute discretion, shall determine the order of speaking, the order in which questions are put, and shall endeavour to ensure the widest possible debate between the Executive and the Council on issues relating to the business of the Executive. The Mayor may also determine that a question should not be put, or does not warrant or justify a supplementary.
- 12.7 The Mayor, in his/her absolute discretion, may allow a Member to ask a question not on notice if in the opinion of the Mayor the matter is one which should be raised, whether it has been referred to by the Executive in their report or not.
- 12.8 At the end of the debate on Executive business, the Leader shall be afforded a further five minutes to reply, which time s/he may share with the other Members of the Executive in whole or in part at his/her absolute discretion.
- 12.9 This item of business shall not last longer than one hour unless, in the view of the Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Mayor shall specify the duration of any extension.
- 12.10 Any question properly submitted under Rule 12.3 but which is not reached in the timeframe allotted for this item of business shall receive a written response from the Executive.
- 12.11 Members shall ensure that questions and answers are concise, relevant and to the point.

## 13. MOTIONS

### 13.1. Motions on Notice

- a. **Notice**

Except for motions which can be moved without notice under Rule 13.2, written notice of every motion, signed by at least one (1) Member, must be delivered to the Head of Legal and Democratic Services not later than 10:00 am on the Monday in the week preceding the next meeting of the Council (or if the Council meeting is held on a day other than a Wednesday, by 10:00 am six Clear Days before the meeting). These will be entered in a book open to public inspection.
- b. **Motion set out in agenda**

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

Motions must be about matters for which the Council has a responsibility or which affect the City of Southampton.
- d. **Notice of Motion to Amend**

Members shall use their best endeavours to ensure that notices of motion to amend shall be in writing, signed by the Member giving the notice, and delivered not later than 12:00 pm (noon) on the day before the day of the meeting to the Head of Legal and Democratic Services.
- e. 

If notice is given of any Motion that the Head of Legal and Democratic Services considers proposes action which is ultra vires, unconstitutional or otherwise illegal, said motion shall not be printed in the Council Summons. If the Head of Legal and Democratic Services considers that a motion is otherwise out of order, such Motion shall be submitted forthwith to the Mayor. The Mayor shall, in his/her absolute discretion, have the right to either rule the Motion out of order or place it on the Council Summons if, in his/her opinion, it is one that ought properly to be considered by the Members of the Council with a view to determining its validity. In the event of a Motion being rejected, the Head of Legal and Democratic Services shall so inform the Member giving notice as soon as reasonably practicable.

### 13.2 Motions without Notice

- a. **The following motions may be moved without notice:**
  - i. to appoint a Chair of the meeting at which the motion is moved;
  - ii. in relation to the accuracy of the minutes;
  - iii. to change the order of business in the agenda;
  - iv. to refer something to an appropriate body or individual;
  - v. to appoint a committee or Member arising from an item on the summons for the meeting;
  - vi. to receive reports or adoption of recommendations of committees or Officer and any resolutions following from them;
  - vii. to withdraw a motion;
  - viii. subject to Rule 13.1(d), to amend a motion;

- ix. to proceed to the next business;
- x. that the question be now put;
- xi. to adjourn a debate;
- xii. to adjourn a meeting;
- xiii. any matter arising under Rule 9;
- xiv. to suspend a particular Rule;
- xv. to exclude the public and press in accordance with the Access to Information Rules;
- xvi. to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4;
- xvii. to give the consent of the Council where its consent is required by this Constitution; and
- xviii. in any other circumstances where the Mayor considers it appropriate.

## **14. RULES OF DEBATE**

### **14.1 No speeches until motion seconded**

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

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

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

### **14.3 Seconders' speech**

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

### **14.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Without the consent of the Mayor, save where otherwise specified, the maximum length of speeches shall be as follows:

Movers of motions	7 minutes
Movers of amendments	7 minutes
The Leader or appropriate Cabinet Member	7 minutes
All other speakers	4 minutes
All rights of reply	4 minutes

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

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

- a. to speak once on an amendment moved by another Member;
- b. to move a further amendment if the motion has been amended since s/he last spoke;
- c. if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- d. in exercise of a right of reply;

- e. on a point of order; and
- f. by way of personal explanation.

#### 14.6 **Amendments to Motions**

- a. An amendment to a motion must be relevant to the motion and will either be:
  - i. to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - ii. to leave out words;
  - iii. to leave out words and insert or add others; or
  - iv. to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- b. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c. If an amendment is not carried, other amendments to the original motion may be moved.
- d. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e. After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 14.7 **Alteration of motion**

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

#### 14.8 **Withdrawal of motion**

A Member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 14.9 **Right of Reply**

- a. The mover of a motion has a right to reply which shall be heard prior to any vote.
- b. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c. The mover of the amendment has no right of reply to the debate on his or her amendment.

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

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

- a. to withdraw a motion;
- b. to amend a motion;
- c. to proceed to the next business;
- d. that the question be now put;
- e. to adjourn a debate;
- f. to adjourn a meeting;
- g. any matter arising under Rule 9;
- h. to exclude the public and press in accordance with the Access to Information Rules; and
- i. to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### 14.11 **Closure motions**

- a. A Member may move, without comment, the following motions at the end of a speech of another Member:
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - ii. to adjourn a debate; or
  - iv. to adjourn a meeting.
- b. If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c. If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote.
- d. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- e. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 14.12 **Point of order**

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

#### 14.13 **Point of Information**

A Member, whether or not he or she has spoken on the question under discussion, may rise whilst another Member is speaking, in order to provide information of assistance to the Council on the subject matter of that other Member's speech and



shall, upon rising, say "Point of Information please, Mr/Madam Mayor". It shall then be for the Member who is speaking to decide whether or not to give way to the Member wishing to provide information.

If it appears to the Mayor that the Member who is addressing the Council does not intend to give way, the Mayor shall have absolute discretion as to who speaks and in what order.

#### **14.14 Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood or which contained a reference to that Member in the course of a speech by another Member in the present debate. The ruling of the Mayor on the admissibility and timing of a personal explanation will be final.

#### **14.15 Inappropriate or Excessive Interventions**

Any use of Rules 14.12, 14.13, 14.14 which the Mayor shall judge to be excessive shall be deemed to be a breach of order under Rule 21.

#### **14.16 Disclosure of Interests and Participation**

Where a member has a disclosable pecuniary interest under the Localism Act 2011 or a personal and pecuniary interest under Part 4 of the Code of Conduct for Members 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 from the Council's Governance Committee.

### **15. HONOURS**

15.1 Where there is any proposal, howsoever it arises, to grant the status of Honorary Alderman or Freeman of the City to any citizen or group of citizens, it is a requirement of the person proposing that such an honour is conferred that the proposal shall be referred, without any further consideration, in confidence, to the Head of Legal and Democratic Services. There shall be no public statement whatsoever by the proposer as to this matter at this stage. The Head of Legal and Democratic Services shall determine whether and if such a proposal is to be taken forward to Council Governance Committee, in consultation with the Group Leaders.

15.2 The Head of Legal and Democratic Services shall, following consultation with the Group Leaders, operate a process and bring forward nominators for the Council to bestow recognition on citizens or groups of citizens for service and the City.

### **16. PREVIOUS DECISIONS AND MOTIONS**

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

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

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third Members of the Council. Once the motion

or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **17. VOTING**

### **17.1 Majority**

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

### **17.2 Mayor's casting vote**

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

### **17.3 Show of hands**

Unless a vote is demanded under Rule 17.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **17.4 Recorded vote**

If 10 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

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

### **17.6 Voting at Budget Meeting**

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

## **18. COMMITTEE RECOMMENDATIONS**

Upon a motion for the determination of minutes of a Committee containing recommendations of that Committee to Council, the Mayor will ask the Chair and Vice-Chair or such other members as appropriate to move and second the minute. If the Chair wishes to move an amendment it should be moved at this time otherwise it is taken that the Chair has reserved his/her introductory speech. The Mayor shall put that minute to the meeting following which it shall be open for general discussion.

If there is more than one minute of a Committee containing recommendations of that Committee to Council, it shall be dealt with once the first minute has been disposed of.

## **19. OVERVIEW AND SCRUTINY BUSINESS**

19.1 The Chair of the Overview and Scrutiny Management Committee or another Member in his/her place, may move a motion relating to the business of Overview and Scrutiny and/or of the findings of a Panel, or a matter that Overview and Scrutiny consider should be debated by Full Council.

- 19.2 For the avoidance of doubt, the Council does not have the legal power to overrule, vary or change an Executive decision, save as provided in the Constitution.
- 19.3 The normal rules of debate for motions shall apply to this item of business.
- 19.4 This item of business shall not last longer than one hour unless in the view of the Mayor, or on a motion moved by a Member, seconded and approved by Council, it is deemed appropriate to extend the time. In this event, the Mayor shall specify the duration of any extension.

## **20. EXCLUSION OF PUBLIC**

- 20.1 Members of the public and press may only be excluded either in accordance with the law, the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

## **21. MEMBERS' CONDUCT**

### **21.1 Standing to speak**

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

### **21.2 Mayor standing**

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

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

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

### **21.4 Member to leave the meeting**

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

### **21.5 General disturbance**

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

## **22. DISTURBANCE BY PUBLIC**

### **22.1 Removal of Member of the public**

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

### **22.2 Clearance of part of room**

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

## **23. ADJOURNED MEETINGS**

When a meeting is adjourned to a future day, notice of the adjourned meeting shall be sent to each Member specifying the business to be transacted thereat, but it shall not be necessary to send with any such notice a second print of any Committee minutes or reports referred to therein. Only new business of an urgent nature may be introduced at an adjourned meeting.

## **24. TERMS OF REFERENCE FOR THE COUNCIL**

The Council may discuss any matter relevant to it, including its Constitution, election, powers and duties, and the City of Southampton.

## **25. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

25.1 All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 1, 5–9, 11–14 (but not 12), 16–18, 20–28 (but not Rule 21.1 in so far as it relates to standing) apply to meetings of committees and sub-committees subject to:

- a. in relation to Rules 5 and 6, the Head of Legal and Democratic Services shall determine the time and place and be responsible for issuing Committee and Sub-Committee summonses and agendas; and
- b. in relation to Rule 17.4, the number of Members present at a meeting requisite to call a recorded vote, shall be three (3) or one third of the full membership of the Committee or Sub-Committee, whichever is greater.

25.2 Whenever a casual vacancy arises in relation to a person appointed other than a Member to a Committee or Sub-Committee, the Head of Legal and Democratic Services shall make that appointment.

### **25.3 Special Meetings of Committees and Sub-Committees**

- a. The Chair of a Committee or Sub-Committee may call a special meeting of that Committee or Sub-Committee at any time.
- b. If
  - i. a requisition for a special meeting of a Committee or Sub-Committee, signed by at least three, or one-third of the total number of the voting Members of a Committee or Sub-Committee, whichever is the greater, has been presented to the person appointed to preside at their meetings, and
  - ii. either s/he has refused to call a meeting or, without him/her so refusing, no special meeting has been called within five Clear Days of the presentation of the requisition.

then any three, or one-third of the number of the members of the Committee or Sub-Committee, whichever is the greater, may forthwith call a special meeting of the Committee or Sub-Committee.

- c. If a meeting of a Committee or Sub-Committee is requisitioned under this Council Procedure Rule, the person doing so shall forthwith give notice in writing that they have done so to the Head of Legal and Democratic Services, specifying the business proposed to be transacted. The Head of Legal and

Democratic Services shall forthwith give notice to all Members of the Committee or Sub-Committee and all persons entitled to receive the papers.

- d. Any requisition under this Council Procedure Rule may be presented by being left with the Head of Legal and Democratic Services.

## **26. CONDUCT OF BUSINESS & DEBATE AT COMMITTEES OR SUB-COMMITTEES**

### **26.1 Terms of Reference**

Subject to and in accordance with the provisions of these Council Procedure Rules, and to any directions of the Council, the terms of reference of the various Committees and Sub-Committees shall be as set out in Part 3 of this Constitution.

### **26.2 Special Procedures and Protocols**

- a. Any Committee or Sub-Committee shall follow a Special Procedure or Protocol, where one exists, for the transaction of the whole or part their business which has been approved by the Head of Legal and Democratic Services.
- b. The Head of Legal and Democratic Services may direct that a Special Procedure or Protocol shall apply to the transaction of the whole or part of business at other Committees or Sub-Committees or in respect of other functions or activities of the Council in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council or for the efficient despatch of business.
- c. Subject always to any legal requirements, a Special Procedure or Protocol may -
  - i. vary, revoke or add to or suspend any of these Council Procedure Rules in respect of the rules and procedures to be followed by such Committees and Sub-Committees; and
  - ii. allow the Chair to waive or vary a Special Procedure or Protocol in exceptional circumstances where to do so would be in the interests of fairness or natural justice.

### **26.3 Committee Business Restricted to Agenda Items**

Except by reason of urgent circumstances, of which the Chair of the Committee or Sub-Committee shall be judge, no business shall be transacted at any meeting of a Committee or Sub-Committee except such as is set out on the agenda which shall be available to the public five clear days before the meeting concerned or at such time as the meeting is convened, if convened at shorter notice.

### **26.4 Reports to Contain Recommendations**

Subject to any Special Procedure or Protocol, all reports relating to items of business on the agenda shall contain a recommendation or recommendations that shall be the original motion for determination by the meeting, and which shall be open to amendment.

### **26.5 Matters on the agenda raised by Members**

Any Member requiring a report on a matter within the terms of reference of a Committee or Sub-Committee to be included on the agenda of that Committee or Sub-Committee must advise the Head of Legal and Democratic Services in writing twelve Clear Days prior to the meeting of this request.

- 26.6 Any Member wishing to urgently raise a matter in the Committee or Sub-Committee after the agenda has been published may do so on giving to the Head of Legal and

Democratic Services reasonable notice in writing stating the reason for urgency. Such matter may only be discussed if the Chair of the Committee or Sub-Committee considers the nature of the business of sufficient urgency to warrant inclusion at the meeting.

## **27. RIGHTS OF MEMBERS TO SPEAK AT MEETINGS OF COMMITTEES AND SUB-COMMITTEES**

27.1 Save where the law or this Constitution provides to the contrary:

- a. the Mayor and Sheriff of the Council, the Leader or any Cabinet Member may speak (but may not vote) at a meeting of a Committee or Sub-Committee of which they are not Voting Members.
- b. the Chair and Vice-Chair of a Committee, may speak at a meeting of any Sub-Committee appointed by that Committee, but may not vote unless appointed as a Voting Member.
- c. a Member of the Council who is not otherwise entitled to speak at a Committee or Sub-Committee shall be entitled to do so (but not to vote) at a meeting of the Committee or Sub-Committee:
  - i. during the consideration of any motion of which notice has been given which s/he has moved or seconded at a meeting of the Council and which has been referred to that Committee or Sub-Committee; or
  - ii. with the prior agreement of the Chair; or
  - iii. during the consideration of any matter which affects his/her ward differently from other wards.
- d. This Council Procedure Rule shall apply equally to meetings or parts of meetings of Committees and Sub-Committees to which the press and public are not admitted under the access to information provisions of the 1972 Act.
- e. A Special Procedure may exclude Rule 27.1(a) above and regulate the manner in which Rules 27.1(b) and (c) are exercised.

## **28. URGENT BUSINESS SUB COMMITTEE**

- 28.1 The Chair and Vice-Chair of each Committee and Sub-Committee of the Council and a representative of the Opposition Party(s) for each Committee or Sub-Committee shall constitute a Sub-Committee with power to deal with any urgent business arising at any time which cannot await the next scheduled meeting of the Committee or Sub-Committee. The quorum for such a meeting shall be two. The reason for urgency shall be included on the agenda, in the report and in the Minutes of the meeting.
- 28.2 Where an Urgent Business Sub-Committee involves more than one Committee or Sub-Committee then the Chairs and Vice-Chairs of those Committees or Sub-Committees together with one representative from each of the Opposition Parties for each parent Committee or Sub-Committee shall constitute the Urgent Business Joint Meeting.
- 28.3 Any Chair or Vice-Chair may nominate a Member of the Committee or Sub-Committee of which they are the Chair and Vice-Chair to act for the purposes of (1) or (2) above whenever they are absent or otherwise unable to act.

- 28.4 Every Urgent Business Sub-Committee shall, when acting in pursuance of Rule 28.1 or 28.2 above, do so subject to the provisions of these Council Procedure Rules and the respective terms of reference of the Committee or Sub-Committee concerned, and in accordance with the appropriate Committee's general policies.
- 28.5 Every decision of an Urgent Business Sub-Committee acting in pursuance of Rule 28.1 or 28.2 above shall be reported to the next following meeting of the Committee or Sub-Committee if time permits or direct to Council.
- 28.6 An Agenda shall be published 5 clear days before the date set for the Urgent Business Sub-Committee's meeting or (if the meeting is called on less than 5 clear days notice) at the time the meeting is convened. Copies of the agenda shall be made available to the Leaders of the Political Group(s) or their nominated representatives and to the public at the time the agenda is published.
- 28.7 The public shall have access to an Urgent Business Sub-Committee meeting but may be excluded by resolution if the urgent business relates to confidential or 'exempt' information as defined in Local Government Act 1972 as amended. The public will be automatically excluded if the business of the meeting is 'confidential' as defined by the Act.

**Note: Urgent Business Sub-Committees shall only be called where it is impracticable to either (1) add the report to the agenda of a scheduled Committee or Sub-Committee meeting as a "late urgent item" or (2) to call a Special Meeting of the Committee or Sub-Committee in question.**

- 28.8 In the case of any business which is included in the meeting of the Committee, Sub-Committee or Urgent Business Sub-Committee by reason of its urgency there shall be within the Minutes of such meeting a note specifying the special circumstances which warranted that the item be included.
- 28.9 For the avoidance of doubt, no business other than urgent business shall be conducted at an Urgent Business Sub-Committee.

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### Access to Information Procedure Rules

#### 1. SCOPE

These rules apply to all meetings of the Council, its Committees and Sub-Committees (including but not limited to the Overview and Scrutiny Committees, area committees (if any), the Governance Committee and regulatory committees and panels and public meetings of the Executive (together called "Meetings").

#### 2. PRINCIPLES

These rules will be interpreted, where possible, in accordance with the following guiding principles / presumptions:

- a. Openness: the right of the public to gain access to Meetings and documents;
- b. Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
- c. Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

#### 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all Meetings subject only to the exceptions in these rules.

#### 4. NOTICES OF MEETING

The Council will give at least five Clear days notice of any Meeting by posting details of the Meeting at the designated office [and publishing on its website.](#)

#### 5. RIGHTS TO PAPERS

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five Clear days before the Meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the agenda has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

#### 6. SUPPLY OF COPIES

The Council will supply copies of:

- a. any agenda and reports which are open to public inspection;
- b. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- c. if the Head of Legal and Democratic Services thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO PAPERS AFTER THE MEETING**

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

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

## **8. BACKGROUND PAPERS**

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

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

- a. disclose any facts or matters on which the report or an important part of the report is based; and
- b. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

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

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

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

A written summary of the public's rights to attend Meetings and to inspect and copy documents will be kept at and available to the public at the Civic Centre – from the Head of Legal and Democratic Services.

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

### **10.1 Confidential information – requirement to exclude public**

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

### **10.2 Exempt information – discretion to exclude public**

The public may be excluded from Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the Meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 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 seven categories (subject to any condition):

CATEGORY		CONDITION
1.	Information relating to any individual.	This means any individual person and relates back to the Data Protection Act 1998 (DPA).
2.	Information which is likely to reveal the identity of an individual.	This again relates back to DPA.
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information).	Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.  The "financial affairs or business affairs" include past, present and contemplated activities.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.	"Employee" means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.
		"Labour relations matter" means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.

CATEGORY		CONDITION
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the Authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
7(A)	Information which is subject to any obligation of confidentiality	
7(B)	Information which relates in any way to matters concerning national security	
7(C)	The deliberations of a Standards Committee or of a sub committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act	

Information is **not exempt** if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

#### 10.5 Public Interest Test

Paragraphs 1-7 of the exceptions (Rule 10.4) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. All report writers will, therefore, give consideration to this and explain why they consider the public interest test is best served by the information remaining exempt. The final officer determination as to disclosure will be made by the Proper Officer for Freedom of Information decisions (the Head of Legal and Democratic Services) who is also the Proper Officer for decision-making. This determination, together with reasons, will appear in the report and the agenda as well in relation to that item.

## 10.6 Governance Committee

All the exemptions may apply to the Governance Committee (and any sub-committees of that) although 7(A), (B) and (C) are specifically applicable to Standards Committees when determining complaints alleging breaches of the Member Code of Conduct.

## 10.7 Executives

The Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 taken cumulatively with previous regulations and primary legislation provide that exempt information does not need to be made available for all Members unless it comes within paragraph 3 and 6 of the table set out in rule 10.4. However, in relation to information under paragraph 3 of the table in rule 10.4, this can remain exempt if the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract.

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

If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the Meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

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

Rules 13 – 24 apply to the Executive and its committees. If the Executive or its committees meet to take a Key Decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 13.03 of this Constitution. If the Executive or its committees meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include briefings, whose sole purpose is for Officers to brief Members.

## 13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 10 (general exception) and Rule 11 (special urgency), a Key Decision may not be taken unless:

- a. a notice (called here a Forward Plan) has been published in connection with the matter in question;
- b. at least twenty eight (8) Clear days have elapsed since the publication of the Forward Plan in which the decision was first included; and
- c. where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and published 28 clear days prior to any regularly scheduled meeting of the Executive.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, Officers, or under joint arrangements in the course of the discharge of 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 name and title, if any and where the decision taker is a body, its name and details of Membership;
- c. the date on which, or the period within which, the decision will be taken;
- d. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e. the means by which any such consultation is proposed to be undertaken;
- f. the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- g. a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be produced and disseminated at least 28 days before the start of the period covered.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 11 (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 28 clear days notice has been given on the Forward Plan;
- b. the Head of Legal and Democratic Services has informed the chair of the Overview and Scrutiny Management Committee, or if there is no such person, the Mayor or in his/her absence the Sherriff, by notice, of the matter to which the decision is to be made;
- c. the Head of Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- d. at least 5 (five) Clear days have elapsed since the Head of Legal and Democratic Services complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public subject to the provisions of Rule 10 and Rule 19.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 10 (general exception) cannot be followed, then the decision can only be taken if the Head of Legal and Democratic Services, on behalf of the decision taker, obtains the agreement of the chair of the Overview and Scrutiny Management Committee that the taking of the decision cannot be reasonably deferred. If the chair is unable to act, then the agreement of the Mayor, or in his/her absence, the Sheriff will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 Overview and Scrutiny Management Committee can require a report**

a. if the committee thinks that a Key Decision has been taken which was not:

- i. included in the Forward Plan; or
- ii. the subject of the general exception procedure; or
- iii. the subject of an agreement under Rule 11;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Assistant Chief Executive, who shall require such a report on behalf of the committee when so requested by the Chair or any five Members; or

b. the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Committee.

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

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

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

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 11 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its committees, whether held in public or private, the Head of Legal and Democratic Services or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. PROCEDURES PRIOR TO PRIVATE MEETINGS OF THE EXECUTIVE**

- 19.1 A private meeting of the Executive shall include any meeting or part of a meeting at which members of the public are to be excluded in accordance with Rule 10.
- 19.2 At least 28 clear days prior to any private meeting of the Exec, the Head of Legal and Democratic Services shall publish Notice of the Executive's intention to hold all or part of the meeting in private, together with a statement of reasons for the meeting to be held in private.
- 19.3 At least five clear days prior to any private meeting of the Executive, the Head of Legal and Democratic Services shall publish a further Notice on the agenda for the meeting and the Council's website confirming the Executive's intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the Executive's response to those representations.
- 19.4 Where the date by which a meeting must be held makes compliance with Rules 19.2 and 19.3 impracticable, the meeting may still be held in private where:
- a. the Head of Legal and Democratic Services has obtained the agreement of the Chairman of the relevant Overview and Scrutiny Committee; or
  - b. if there is no such person or such a person is unable to act, the agreement of the Mayor; or
  - c. if the Mayor is unable to act, the agreement of the Sheriff.

## **20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE**

Members of the Executive or its committees will be entitled to receive five Clear days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

- a. All Members of the Executive will be served notice of all private meetings of committees of the Executive, whether or not they are Members of that committee.
- b. All Members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- c. Members other than Executive Members will not be entitled to attend private meetings of the Executive, and its committees.
- d. The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Head of Legal and Democratic Services has been given reasonable notice that a meeting is to take place.
- e. A private Executive meeting may only take place in the presence of the Head of Legal and Democratic Services or his/her nominee with responsibility for recording and publicising the decisions



## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

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

Where an individual Member of the Executive receives a report which s/he intends to take into account in making any Key Decision, then s/he will not make the decision until at least five Clear days after receipt of that report.

### **22.2 Provision of copies of reports to overview and scrutiny committees**

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

### **22.3 Record of individual decision**

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or a Key Decision has been taken by an officer, s/he will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

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

### **23.1 Rights to copies**

Subject to Rule 23.2 below, Overview and Scrutiny Management Committee (and its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive (or its committees) and which contains material relating to

- a. any business transacted at a public or private meeting of the Executive or its committees; or
- b. any decision taken by an individual Member of the Executive; or
- c. any decision taken by an officer of the authority exercising an Executive function.

### **23.2 Limit on rights**

An overview and scrutiny committee will not be entitled to:

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

23.3 Copies of documents requested under Rule 23 must be supplied within 10 clear days of receipt of the request.

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

### **24.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:

- a. it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- b. it contains the advice of a political adviser.

### **24.2 Material relating to Decisions**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any decision of the Executive made at a public meeting unless paragraph (a) or (b) above applies.

### **24.3 Nature of rights**

These rights of a Member are additional to any other right s/he may have.

## **25. CONFIDENTIALITY OF COUNCIL BUSINESS**

25.1 Any item of business at Full Council, a Committee or Sub-Committee which falls to be dealt with as confidential and the relevant body's discussion in relation to the item shall be kept confidential and may only be disclosed to and discussed by the following:

- a. Councillors;
- b. other persons appointed under Section 102 of the 1972 Act as members of Committees or Sub-Committees;
- c. such officers of the Council as are concerned with the matter in the course of their duties; and
- d. such other persons to whom in the Head of Legal and Democratic Services' opinion the item of business or report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council;

and there shall be no further disclosure of such report, item of Council business or discussion thereof to any other person whatsoever.

25.2 The business referred to in Council Procedure Rule 25.1 consists of any report marked "not for publication" in accordance with the requirements of the 1972 Act or an item of Council business which has been agreed as being confidential by the Committee or Sub-Committee concerned, or by the Council in accordance with the 1972 Act.

25.3 Subject to the Council Procedure Rules, a member of a working party or panel set up by the Council, a Committee or Sub-Committee (including any working party or panel established for the purpose of meeting and holding discussions with an individual, body of individuals or organisation distinct from the City Council) being a working party or panel comprised of Members or Members and Co-opted members or

Members and officers, or Members Co-opted members and officers, shall not disclose a matter dealt with by or brought before the working party or panel, without its permission until the proceedings of that working party or panel have been reported to the Council or to the Committee or Sub-Committee which set up the working party or panel, or the working party or panel shall otherwise have concluded action on that matter.

- 25.4 An item of business or report shall remain confidential until its confidentiality is removed by decision of the Committee or Sub-Committee concerned, or by the Full Council or in exceptional circumstances, the Head of Legal and Democratic Services may waive the confidentiality.

**26. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

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## FINANCIAL PROCEDURE RULES

The Financial Procedure Rules consist of and should be interpreted as the Council's Financial Regulations.

### 1. STATUS OF FINANCIAL PROCEDURE RULES

- 1.1 The Council's financial procedure rules provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the authority and anyone acting on its behalf. These rules must be read in conjunction with the whole of the Constitution and any other Council Standards.
- 1.2 The rules identify the financial responsibilities of the Full Council, the Cabinet, Members and Officers. Chief Officers are defined for the purpose of these rules as the Chief Executive, Directors and the Chief Financial Officer (CFO). All Members and Officers 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, properly authorised, provides value for money and achieves best value.
- 1.3 The CFO is responsible for maintaining a continuous review of the financial procedure rules and may, where he or she considers it necessary, issue revisions during the year. Where the CFO considers the revisions to be significant and material additions or changes, these will be reported to the Full Council for noting and/or approval. The CFO is also responsible for reporting, where appropriate, any breach of the financial procedure rules to the Full Council and/or to the Cabinet.
- 1.4 To underpin the financial procedure rules, the CFO is responsible for issuing any relevant advice and guidance that Members, Officers and others acting on behalf of the authority are required to follow. Such advice and guidance will be reviewed, and amended as necessary, by the CFO.
- 1.5 Chief Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial procedure rules 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.~~ An electronic copy can be found on the Council's website.

## **A: FINANCIAL MANAGEMENT**

### Responsibilities of the CFO

- A.1 To ensure the proper administration of the financial affairs of the authority.
- A.2 To monitor compliance with the financial procedure rules.
- A.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.
- A.4 To advise on the key strategic controls necessary to secure sound financial management.
- A.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.

### Responsibilities of Chief Officers

- A.6 To promote the financial procedure rules in their departments and to monitor adherence to the standards and practices, liaising as necessary with the CFO.
- A.7 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **Financial Accountabilities in relation to the Scheme of Revenue Virement (including HRA)**

### Explanatory Note

*The overall budget is agreed by the Cabinet and approved by the Full Council. Chief Officers and budget managers are therefore authorised to incur net expenditure in accordance with the estimates that make up the budget for the current financial year. The rules below cover virement. That is, switching resources between approved estimates or heads of expenditure and income.*

### What is a Virement?

*A virement is the:*

*'planned transfer of a budget for use in a different purpose to that originally intended'.*

*A virement does not create additional overall budget liability. It changes the purpose for which the budget will be used compared to that originally intended.*

*Chief 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 virements against 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.

Chief Officers must plan to fund such commitments from within their own budgets having regard to the overall forecast out-turn for the service ~~and~~, the Portfolio and the Directorate. Any budget provided by the Full Council to meet specific pressures must be used for the identified purpose or identified to the CFO to enable the resource to be utilised as he/she sees fit. ~~returned to the General Fund balance.~~

Given the need for overall financial management of the Housing Revenue Account (HRA), ~~the~~ Head of Service for all HRA virements is the Head of Service for Housing Services and the Chief Officer is the Director of People in consultation with the CFO.

A virement should in no circumstances be used to mask an over or under-spend. The reporting of over and under-spends is important so that Members have a full understanding of where spending pressures and savings opportunities may arise.

For the purposes of the scheme set out below, a virement occurs when a budget is transferred from one subjective heading to another (for example, from supplies and services to transport expenditure) or from one Service Activity to another. Transfers within a subjective heading within the same Service Activity are not defined as virements. Service activities that will apply for the following financial year are those which are set out in the budget approved by the Full Council for the coming financial year.

~~Centralisation or decentralisation of budget responsibility is not to be treated as virement, but any proposal to do so should be in consultation with the CFO.~~

A.8 All virements should be cleared in the first instance by the relevant accounting support for the Service Activity concerned. All virements must be recorded on the Delegated Virement form and communicated to Financial Planning.

A.9 Controls on the use of additional controllable income are required to ensure that significant additional income is not spent without any control process in place. These ~~controls~~ rules would ~~do~~ not apply to:

- (a) Grant income (except external funding bids).
- (b) Trading income.
- (c) Additional expenditure incurred to deliberately generate more income.
- (d) Pooled budgets arrangements e.g. with CCG funds

A.10 Where a service delivers additional controllable income in excess of budget, the expectation is that the first call on such income should be on delivering a balanced Directorate budget or a surplus overall budget position.

A.10A.11 Where the additional grant is the result of an external funding bid, approval is required to accept the funding as shown in the table below.

**A.11A.12** Decisions will be made in line with the criteria set out in the table below:

<b>Value</b>	<b>Virement of expenditure budgets</b>	<b>Virement of income budgets and acceptance of external funding bids</b>
<b>Any amount</b>	Employee Budgets within a Service Activity can be approved by HEADS of SERVICE and CHIEF OFFICERS. (*)	Expenditure Budgets can be increased in line with additional grant income (except external funding bids), to deliver an increase in a support service or trading activity.
<b>Up to £200,000</b>	Approved by CHIEF OFFICERS in consultation with the CFO	Approved by CHIEF OFFICERS in consultation with the CFO
<b>£200,000 to £500,000</b>	Approved by CHIEF OFFICERS in consultation with CFO and Cabinet Member	Approved by CHIEF OFFICERS in consultation with CFO and Cabinet Member
<b>Over £500,000 to £2 million</b>	Approved by CABINET	Approved by CABINET
<b>Over £2 million</b>	Approved by COUNCIL	Approved by COUNCIL

(\* However, no virements are allowed from employee expenditure budgets to non employee expenditure budgets without approval from the CFO).

**A.12A.13** The HRA contingency and revenue balance is defined as a “non-employee” budget. However, any virements from the HRA revenue balance that would reduce the level of balances below the minimum level set by the CFO in the HRA budget and business plan report can only be approved by the Full Council.

### **Financial Accountabilities in Relation to the Treatment of Year-end Balances**

#### **Responsibilities of the CFO**

**A.13A.14** To administer the scheme of carry-forward within the guidelines approved by the Full Council.

**A.14A.15** To report all under-spends on service estimates carried forward to the Full Council for approval.

#### **Responsibilities of Chief Officers**

**A.15A.16** Any over-spends will be reported by the CFO to the Cabinet and to the Full Council.

A.16A.17 Under—spends on specific estimates may be carried forward within guidelines issued by the CFO, subject to the approval of the Full Council.

A.17A.18 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet Member concerned, following evaluation by the relevant Chief Officer and the CFO. Schools will normally be expected to agree a plan to recover the deficit within a defined period.

A.18A.19 In exceptional circumstances, schools may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Cabinet. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

## **Financial Accountabilities in Relation to Accounting Policies**

### *Responsibilities of the CFO*

A.19A.20 To select suitable accounting policies, and to ensure that they are applied consistently. The accounting policies are set out in the Financial Statements, which are prepared at 31 March each year, and covers such items as:

- (a) Separate accounts for capital and revenue transactions
- (b) The basis on which debtors and creditors at year-end are included in the accounts
- (c) Details on substantial provisions and reserves
- (d) Fixed assets
- (e) Depreciation
- (f) Capital charges
- (g) Work in progress
- (h) Stocks and stores
- (i) Deferred charges
- (j) Accounting for value added tax
- (k) Government grants
- (l) Leasing
- (m) Pensions

### *Responsibilities of Chief Officers*

A.20A.21 To adhere to the accounting policies and guidelines approved by the CFO.

## **Financial Accountabilities in relation to Accounting Records and Returns**

### *Responsibilities of the CFO*

A.21A.22 To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the CFO should consult the Chief Officer concerned.

A.22A.23 To arrange for the compilation of all accounts and accounting records under his or her direction.

A.23A.24 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.

A.24A.25 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2011.

A.25A.26 To ensure that all claims for funds including grants are made by the due date.

A.26A.27 To prepare and publish the draft accounts of the authority for each financial year, in accordance with the statutory timetable, which is currently 30 June. With the requirement for the Governance Committee to approve the audited Financial Statements by the date set out in the Accounts and Audit Regulations which is currently the 30 September.

A.27A.28 To administer the authority's arrangements for under-spends to be carried forward to the following financial year.

A.28A.29 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

### Responsibilities of Chief Officers

A.29A.30 To consult and obtain the approval of the CFO before making any changes to accounting records and procedures.

A.30A.31 To comply with the principles outlined in paragraph A.23, when allocating accounting duties.

A.31A.32 To maintain adequate records to provide a management-audit trail leading from the source of income/expenditure through to the accounting statements.

A.32A.33 To supply information required to enable the Financial Statements to be completed in accordance with guidelines and timetable issued by the CFO.

### **Financial Accountabilities in relation to the Annual Financial Statements**

#### Responsibilities of the CFO

A.33A.34 To select suitable accounting policies and to apply them consistently.

A.34A.35 To make judgments and estimates that are reasonable and prudent.

A.35A.36 To comply with the Code of Practice on Local Authority Accounting in the United Kingdom (Code of Practice).

A.36A.37 To sign and date the Financial Statements, stating that they present a true and fair view of the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.

A.37A.38 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

*Responsibilities of Chief Officers*

A.39 To comply with accounting guidance provided by the CFO and to supply the CFO with information when required.

B.0

## **C:B: FINANCIAL PLANNING**

### *Responsibilities of the CFO*

**C.1B.1** \_\_\_\_\_ To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

**C.2B.2** \_\_\_\_\_ To contribute to the development of corporate and service targets and objectives and performance information.

### *Responsibilities of Chief Officers*

**C.3B.3** \_\_\_\_\_ To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

**C.4B.4** \_\_\_\_\_ To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

**C.5B.5** \_\_\_\_\_ To contribute to the development of performance plans in line with statutory requirements.

**C.6B.6** \_\_\_\_\_ To contribute to the development of corporate and service targets and objectives and performance information.

## **The Budget**

### *Explanatory Note*

*The Council is moving to an outcomes based commissioning approach to determine the best way of delivering a service, and sitting alongside this it is anticipated the budgeting process will follow suit to deliver an outcomes based budget. The Council will review its current expenditure on an outcomes basis and from this baseline point will determine what the appropriate level of spend needs to be to deliver on its agreed priorities, within the financial envelope available.*

*This is a very different approach than that taken previously whereby individual services ~~IDENTIFIED~~ identified up with savings proposals and presented these to senior management and Cabinet.*

## **Format of the Budget**

### *Responsibilities of the CFO*

**C.7B.7** \_\_\_\_\_ To advise the Cabinet and opposition groups on the format and content of the budget that is to be approved by the Full Council. This includes providing a commentary on the robustness of the estimates made for the purpose of the calculations (to set the Council Tax), and the adequacy of the proposed level of reserves, as required by Section 25 of the Local Government Act 2003.

### Responsibilities of Chief Officers

C.8B.8 To comply with accounting guidance provided by the CFO.

### **Revenue Budget Preparation, Monitoring and Control**

#### Responsibilities of the CFO

C.9B.9 For the General Fund, to ensure that an annual revenue budget together with a FIVEthreefive year overview is prepared on an annual basis for consideration and recommendation by the Cabinet, before submission to the Full Council. The CFO will also prepare the indicators required as part of the Prudential Code. The Full Council may amend the budget and Prudential Indicators or ask the Cabinet to reconsider them before approving them.

C.10B.10 For the HRA, to ensure that a 30 year business plan is produced which covers revenue and capital spending. With regard to the revenue budget, there must be a detailed budget for the forthcoming financial year for consideration and recommendation by the Cabinet, before submission to the Full Council. The CFO will also prepare the indicators required as part of the Prudential Code. The Full Council may amend the budget and Prudential Indicators or ask the Cabinet to reconsider them before approving them. The 30 year business plan should also be presented to the Cabinet and the Full Council as part of the budget report.

C.11B.11 To establish an appropriate framework of budgetary management and control that ensures:

- (a) Budget management is exercised within annual cash limits unless the Full Council agrees otherwise
- (b) Each Chief 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) Expenditure is committed only against an approved budget head
- (d) All managers responsible for committing expenditure comply with relevant guidance, and the financial procedure rules
- (e) Each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- (f) Significant variances from approved budgets are investigated and reported by budget managers regularly

C.12B.12 To administer the authority's scheme of revenue virement.

C.13B.13 To submit reports to the Cabinet and if necessary to the Full Council, following consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.

C.14B.14 To prepare and submit reports to the Cabinet on the authority's projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Chief Officers

C.15B.15 To ensure that budget estimates reflecting agreed service plans are produced in consultation with the Cabinet Member and submitted to the CFO in accordance with the budget timetable and the guidance issued for the production of budget reports to the Cabinet and the Full Council.

C.16B.16 To maintain budgetary control within their departments, in adherence to the principles in B.11, and to ensure that all income and expenditure are properly recorded and accounted for.

C.17B.17 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.

C.18B.18 To ensure that spending remains within the service's overall cash limit and that individual budget heads are not over spent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

C.19B.19 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget, and that this process is operating effectively.

C.20B.20 To prepare following consultation with the CFO reports on the service's projected expenditure compared with its budget, in accordance with the Council's Corporate Monitoring procedure and timetable.

C.21B.21 To ensure prior approval by the Full Council or the Cabinet (as appropriate) for new proposals, of whatever amount, that:

- (a) Create financial commitments in future years
- (b) Change existing policies, initiate new policies or cease existing policies
- (c) Materially extend or reduce the authority's services

The report on new proposals should explain the full financial implications, after consultation with the CFO. Unless the Full Council or the Cabinet has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their cash limit

C.22B.22 To ensure compliance with the scheme of virement.

C.23B.23 To agree with the relevant Chief 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.



## **Capital Programme Management**

### Explanatory Note

The Council has a two stage approach to deciding its capital spending. An item of spending must first be included in (added to) the Councils Capital Programme, but this does not provide authority to proceed with the scheme. This is done via a separate “scheme approval” process.

Expenditure included in the Capital Programme may relate to a specific project for example, “Communal works at Ventnor Court”, or may make provision for certain types or areas of spending for example, “Future communal area works”. However, a “scheme approval” report must relate to a specific project and contain the information specified by the CFO (as a minimum) as set out in Appendix 2.

Expenditure included in the Capital Programme must show the total value of contracts and related expenses that the council will incur. Any grants or other income must be shown as a source of capital finance and not as a reduction to the gross expenditure.

### Responsibilities of the CFO

~~C.25~~B.24 To issue guidance concerning capital schemes and controls, and to determine the definition of “capital”, having regard to government regulations and accounting requirements.

B.25 To ensure that the Capital Programme is presented to Full Council as part of the budget and at such other times as the CFO may determine. The CFO will determine the period to be covered by the General Fund Capital Programme. The HRA capital spending plans will be included in summarised form in the 30 year HRA business plan that will be reported to Full Council as part of the budget report. The CFO will determine the period that should be covered by the detailed HRA Capital Programme.

~~C.26~~B.26 ~~The CFO will r~~To report on the outturn of capital expenditure to Council as soon as practicable after the end of the financial year.

~~C.27~~

### Responsibilities of the Council Capital Board

~~C.28~~B.27 To oversee and coordinate the preparation, review and implementation of the Council’s Capital Strategy and Asset Management Plan. The Capital Strategy and the Asset Management Plan must be approved by Council and reviewed annually.

~~C.29~~B.28 To lead the strategic direction of capital investment for the Council. The Council Capital Board will operate on a commissioning basis. This will enable funding to be better aligned with other partners and funding sources and ensure a city wide approach is taken. Responsibility for evaluating bids for capital funding and the monitoring of the Capital Programme including Post Project Evaluations, within the framework of the Capital Strategy and the Asset Management Plan.

C.30B.29 The full terms of reference for the Council Capital Board are attached at Appendix 1. In summary the Council Capital Board will be responsible for:

- (a) Managing un-ringfenced and corporate resources and reviewing all bids for resources, evaluating them and then agreeing on the prioritisation of resources accordingly.
- (b) Reviewing the use of any ring-fenced resources to ensure alignment with other spending plans and the maximisation of benefits to the Council and achievement of Council objectives.
- (c) Recommending the use of both un-ringfenced and ring-fenced resources and also the general prioritisation of resources so that Cabinet/Council can make a final well informed decision on the utilisation of resources.
- (d) Prior to the annual review of the capital strategy undertaking a review of the individual projects.

~~(a) — The governance of the Council's Capital Programme.~~

~~(b) — Reviewing existing schemes within the Council Approved Capital Programme and considering any changes to those schemes.~~

~~(c) — Considering new bids requiring capital funding.~~

~~(d) Ensuring that there is corporate awareness of all proposals and encouraging joint and collective agreement of schemes to be included in the programme.~~

C.31B.30 Making all capital investment decisions with reference to Council objectives and regional strategies. Only after a positive contribution to one or more of the objectives has been demonstrated, is a project to be considered for resource allocation. To assess any changes to the Capital Programme, against criteria that aim to align the programme to the Councils overall objectives and values and priorities and the matching those priorities against the available and known future capital resources. Due regard should be given to:

- (a) External funding available to the Council from Government and other grants & supported borrowing;
- (b) Hypothecation ('ring-fencing' of external funding for specified purposes) and non-hypothecated but ear-marked resources that are available for any permitted use;
- (c) Developer contributions towards capital expenditure, under Community Infrastructure Levy or any similar arrangements;
- (d) Internal resources available from capital receipts, non-supported borrowing and revenue contributions to capital;
- (e) Resources allocated to services including resources in the major programme blocks (Education, Housing, Transport & Other Services);
- (f) Unallocated resources held in reserve.

### Responsibilities of Chief Officers

C.32B.31 To establish Directorate or Portfolio Capital Boards to monitor the implementation and delivery of the ~~approved Capital Programme~~individual

~~projects, reporting exceptions to the Council Capital Board as relevant-allowing the Council Capital Board to concentrate on overall capital strategy.~~

~~C.33B.32~~ To act as owners and sponsors of individual capital schemes and hold the ultimate responsibility and accountability for their delivery.

~~C.34B.33~~ To identify one officer or post to lead the overall management of the Directorate's Capital Programme. The role will include reporting monthly to the Directorate Management Team on the progress of the capital programme and identify and implement corrective measures that may be required.

~~C.35B.34~~ To present annually the Capital Programme, in conjunction with the annual revenue budget process, to Full Council for approval and at such other times as the CFO may determine. The Programme shall be recommended for approval following consideration by the Council Capital Board. This will include projected available resources, the allocation of resource to schemes, prudent retention of resources to meet unforeseen short-term demands, variances in projected available resources and medium term future needs.

~~C.36B.35~~ When additions are made to an existing scheme in the capital programme, the required approval should be based on the costs of the entire project.

~~C.37B.36~~ Schemes already added to the capital programme may spend up to £50,000 or ten per cent of the scheme budget, whichever is the lesser, with the approval of the relevant Chief Officer following consultation with the relevant Cabinet Member in advance of approval to spend on the scheme for the purpose of scheme design and costing etc. Feasibility work is generally a charge to revenue carried out prior to a scheme being added to the programme and any such work can only be capitalised if it is directly attributable to an asset being built, acquired or enhanced.

~~C.38B.37~~ The CFO will report on the outturn of capital expenditure to Council as soon as practicable after the end of the financial year.

~~C.39B.38~~ Decisions will be made in line with the criteria set out in the table below and may include:

- (a) Additions to the council approved programme which are not funded by external resources;
- (b) Virements between schemes detailed in the approved programme;
- (c) Rephasing of expenditure between financial years and
- (d) Removal/Cessation of schemes detailed in the approved programme.

	<b>Approval to Spend (See Appendix 2) *</b>	<b>Virements and Re-Phasing **</b>
<p><b><u>Additions: Existing or New Schemes</u></b></p> <p>Funded from <b>new</b>, sources <u>including 100% ringfenced</u>.</p> <p>Report required to Council Capital Board by Chief Officer in consultation with CFO and Cabinet Member</p>	<p><b><u>Approval to Spend (See Appendix 2) *</u></b></p> <p>Can be sought as a separate decision or within the same report as seeking approval to add a new scheme if sufficient detail is available</p>	<p><b><u>Virements and Re-Phasing **</u></b></p> <p>Variations across a programme of works <b>within an overall scheme</b> can be approved by CHIEF OFFICER in consultation with CFO and relevant Cabinet Member</p>
<p><b>Up to £500,000</b></p> <p>Approved by CHIEF OFFICER in consultation with CFO and Cabinet Member</p>	<p><b>Up to £500,000</b></p> <p>Approved by CHIEF OFFICER in consultation with CFO and Cabinet Member</p>	<p><b>Up to £500,000</b></p> <p>Approved by CHIEF OFFICER in consultation with CFO and Cabinet Member</p>
<p><b>Over £500,000 up to £2 million</b></p> <p>Approved by CABINET</p>	<p><b>Over £500,000 up to £2 million</b></p> <p>Approved by CABINET</p>	<p><b>Over £500,000 up to £2 million</b></p> <p>Approved by CABINET</p>
<p><b>Over £2 million</b></p> <p>Approved by COUNCIL</p>	<p><b>Over £2 million</b></p> <p>Approved by COUNCIL</p>	<p><b>Over £2 million</b></p> <p>Approved by COUNCIL</p>

\* This includes credit arrangements such as financing leases.

\*\* If the virement is not in line with current approved council policies and strategies the decision must be made by Council regardless of value.

## Variation to the HRA Business Plan

### Explanatory Note

*The HRA now has a 30 year business plan that will be approved each year by the Full Council as part of the budget. The business plan covers capital and revenue spending and income and forms part of the Policy Framework.*

*The revenue virement rules deal with in-year changes but by definition, they do not cover situations where there are financial implications beyond one year.*

*The capital virement rules cover the movement of funds between schemes. The rephasing of spending within a capital scheme is not regarded as a virement but care must be taken to ensure that the cumulative effect of such changes does not increase the overall spending in any one year such that additional prudential borrowing is needed over the levels agreed by the Full Council, (in which case a report would need to be presented to Council to approve the additional borrowing).*

*It is however possible for matters to arise in-year that would have an impact on the 30 year business plan. In these circumstances the following amendment limits apply:*

**G.40B.39** A **Chief Officer** following consultation with the relevant Cabinet Member and the CFO can approve a change in the annual business plan surplus of **up to £200,000** in any one year providing the change is in line with policies and strategies already agreed by the Full Council. This is subject to the 30 year impact on the cumulative surplus not exceeding £2.5M or 5 per cent of the cumulative surplus, whichever is the lower, and the level of balances in any one year not being reduced below the minimum level set by the CFO.

**G.41B.40** A **Chief Officer** in consultation with the relevant Cabinet Member and the CFO can approve a change in the annual business plan surplus of **between £200,000 and £500,000** in any one year providing the change is in line with policies and strategies already agreed by the Full Council. This is subject to the 30 year impact on the cumulative surplus not exceeding £5.0M or 7.5 per cent of the cumulative surplus, whichever is the lower, and the level of balances in any one year not being reduced below the minimum level set by the CFO.

**G.42B.41** Approval from the **Cabinet** is required for any change in the annual business plan surplus of **between £500,000 and £2,000,000** in any one year providing the change is in line with policies and strategies already agreed by the Full Council. This is subject to the 30 year impact on the cumulative surplus not exceeding £10.0M or 10 per cent of the cumulative surplus, whichever is the lower.

**G.43B.42** Approval from the **Full Council** is required for any change in the annual business plan surplus in **excess of £2,000,000** in any one year or any change the cumulative business plan surplus in excess of £10.0M or 10 per cent of the cumulative surplus, or any change which is not in line with the policies and strategies already agreed by the Full Council.

## **D:C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Risk Management**

#### *Responsibilities of the CFO*

- D.1C.1 \_\_\_\_ To prepare and promote the authority's risk management policy statement.
- D.2C.2 \_\_\_\_ To develop risk management controls in conjunction with other Chief Officers.
- D.3C.3 \_\_\_\_ To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- D.4C.4 \_\_\_\_ To offer insurance cover to schools.
- D.5C.5 \_\_\_\_ To advise the Cabinet on proper insurance cover where appropriate, and effect corporate insurance cover, through external insurance and internal funding.

#### *Responsibilities of Chief Officers*

- D.6C.6 \_\_\_\_ To notify the CFO 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 CFO or the authority's insurers.
- D.7C.7 \_\_\_\_ To take responsibility for risk management, having regard to advice from the CFO and other specialist Officers, for example, crime prevention, fire prevention, health and safety.
- D.8C.8 \_\_\_\_ To ensure that there are regular reviews of risk within their departments.
- D.9C.9 \_\_\_\_ To notify the CFO promptly of all new risks, properties or vehicles that require insurance and of any alterations or new initiatives affecting existing insurances.
- D.10C.10 \_\_\_\_ To consult the CFO and where appropriate the Head of Service Legal, and Democratic Services on the terms of any indemnity that the authority is requested to give.
- D.11C.11 \_\_\_\_ 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.

### **Internal Control**

#### *Responsibilities of the CFO*

- D.12C.12 \_\_\_\_ 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.

### Responsibilities of Chief Officers

D.13C.13 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and financial performance targets, and management of risks.

D.14C.14 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 CFO. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example because of duplication.

D.15C.15 To ensure staff have a clear understanding of the consequences of lack of control.

### **Audit Requirements – Internal Audit**

#### Responsibilities of the CFO

D.16C.16 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
- (f) Directly access the Head of Paid Service, the Cabinet and Overview and Scrutiny Management Committee

D.17C.17 To approve the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved.

D.18C.18 To ensure that effective procedures are in place to investigate promptly any suspected fraud or irregularity.

#### Responsibilities of Chief Officers

D.19C.19 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.

D.20C.20 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

D.21C.21 To consider and respond promptly to recommendations in audit reports.

D.22C.22 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

D.23C.23 To notify the CFO immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

D.24C.24 To ensure new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

### **Audit Requirements – External Audit**

#### *Responsibilities of the CFO*

D.25C.25 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.

D.26C.26 To ensure there is effective liaison between external and internal audit.

D.27C.27 To work with the external auditor and advise the Full Council, the Cabinet and Chief Officers on their responsibilities in relation to external audit.

#### *Responsibilities of Chief Officers*

D.28C.28 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.

D.29C.29 To ensure that all records and systems are up to date and available for inspection.

### **Preventing Fraud and Corruption**

#### *Responsibilities of the CFO*

D.30C.30 To develop and maintain an anti-fraud and anti-corruption policy.

D.31C.31 To maintain adequate and effective internal control arrangements.

D.32C.32 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.

#### *Responsibilities of Chief Officers*

D.33C.33 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.



D.34C.34 To invoke the authority's disciplinary procedures where the outcome of an investigation indicates improper behaviour.

D.35C.35 To ensure that where financial impropriety is discovered, the CFO is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

D.36C.36 To maintain a departmental register of interests.

## **Assets – Security**

### *Responsibilities of the CFO*

D.37C.37 To ensure that an asset register is maintained in accordance with good practice for all fixed assets whose value is material in the manner prescribed by CIPFA in the Institute's Practical Guide to Asset Registers. 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, and are adequately maintained.

D.38C.38 To receive the information required for accounting, costing and financial records from each Chief Officer.

D.39C.39 To ensure that assets are valued in accordance with the Code of Practice.

### *Responsibilities of Chief Officers*

D.40C.40 The appropriate Chief Officer shall maintain a property database in a form approved by the CFO for all properties, plant and machinery and moveable assets 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.

D.41C.41 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 appropriate Chief Officers has been established.

D.42C.42 To ensure the proper security of all buildings and other assets under their control.

D.43C.43 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the appropriate Chief Officers

D.44C.44 To pass title deeds to the appropriate Chief Officer who is responsible for custody of all title deeds.

D.45C.45 To ensure that no authority asset is subject to personal use by an employee without proper authority.

D.46C.46 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority. If an asset requires to be moved,

altered, or disposed of check that the asset has not been leased or that any lease conditions are complied with.

D.47C.47 To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the CFO.

D.48C.48 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

D.49C.49 To consult the CFO in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

D.50C.50 To ensure cash holdings on premises are kept to a minimum.

D.51C.51 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 CFO as soon as possible.

D.52C.52 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the CFO, the relevant Cabinet Member, the Cabinet or the Full Council (as appropriate) agrees otherwise.

D.53C.53 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the CFO.

D.54C.54 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.

D.55C.55 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £200 in value.

D.56C.56 To carry out an annual check of all items on the inventory 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.

D.57C.57 To make sure that property is only used in the course of the authority's business, unless the Chief Officer concerned has given permission otherwise.

D.58C.58 To make arrangements for the care and custody of stocks and stores in the department.

D.59C.59 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

D.60C.60 To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit.

D.61C.61 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the CFO, the Cabinet decides otherwise in a particular case.

D.62C.62 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.

D.63C.63 To ensure that, in the event of any disaster, contingency plans for the security of assets and continuity of service or system failure are in place.

## **Assets – Disposal**

### *Responsibilities of the CFO*

D.64C.64 To issue guidelines representing best practice for disposal of assets. Corporate Property Standards should be followed for disposals of Land and Buildings.

D.65C.65 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.

### *Responsibilities of Chief Officers*

D.66C.66 To dispose of surplus or obsolete materials, stores or equipment in accordance with the guidelines issued by the CFO.

D.67C.67 To ensure that income received for the disposal of an asset is properly banked and coded.

## **Treasury Management**

*All financial transactions actioned as part of the Council's Treasury Management function will be undertaken in line with the approved Treasury Management Strategy and practices, but will fall outside of the Delegated Decision Notice process.*

### *Responsibilities of CFO*

D.68C.68 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.

D.69C.69 To report a proposed treasury management strategy for the coming financial year to the Full Council at, or before the start of, each financial year.

D.70C.70 To report to the Full Council 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.

D.71C.71 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the CFO.

D.72C.72 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.

D.73C.73 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 Chief Officer.

D.74C.74 To affect all borrowings in the name of the authority.

D.75C.75 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

#### Responsibilities of Chief Officers

D.76C.76 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, following consultation with the CFO, of the Full Council or the Cabinet as appropriate, subject to the criterion as detailed in E.9.

D.77C.77 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 CFO, unless the deed otherwise provides.

D.78C.78 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the CFO, and to maintain written records of all transactions.

D.79C.79 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

D.80C.80 To follow the instructions on banking issued by the CFO.

#### **Staffing**

##### Responsibilities of the CFO

D.81C.81 To act as an advisor to Chief Officers on areas such as national insurance and pension contributions, as appropriate.

##### Responsibilities of Chief Officers

D.82C.82 To produce an annual staffing estimate within the budget allocation available.

D.83C.83 To advise the CFO and the Head Strategic HR & OD if the budget allocation is insufficient to cover the estimated staffing levels.

D.84C.84 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training, temporary staff and vacancy management.

~~D.85~~C.85 To ensure that the staffing budget is not exceeded without due authority, adjusting staffing to a level that can be funded within approved budget provision, and varying the provision as necessary within that constraint in order to meet changing operational needs.

~~D.86~~—To ensure that the Head of Strategic HR & OD and the CFO are immediately informed if the staffing budget is likely to be materially over or under spent.

~~D.87~~C.86 To ensure the proper use of appointment procedures and manage the staffing establishment in line with guidance issued by the CFO and the Head of Strategic HR & OD.

## **E:D: SYSTEMS AND PROCEDURES**

### **General**

#### **Responsibilities of the CFO**

**E.1D.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

#### **Responsibilities of Chief Officers**

**E.2D.2** To ensure that accounting records are properly maintained and held securely.

**E.3D.3** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the CFO.

**E.4D.4** 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.

**E.5D.5** 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

**E.6D.6** To ensure that the organisational structure provides an appropriate segregation of duties, an adequate level of internal control, and that the risk of fraud or other malpractice is minimised.

**E.7D.7** 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.

**E.8D.8** To ensure that systems are documented and staff trained in operations.

**E.9D.9** To consult with the CFO before changing any existing system or introducing new systems.

**E.10D.10** To establish a scheme of delegation identifying Officers authorised to act upon the Chief Officer's behalf, or on behalf of the Cabinet, in respect of payments,

income collection and placing orders, including variations, and showing the limits of their authority.

~~E.11~~D.11 Where relevant, to supply lists of authorised Officers, with specimen signatures if required, and delegated limits, to the CFO, together with any subsequent variations.

~~E.12~~D.12 To ensure that effective contingency arrangements, including back-up procedures for computer systems are in place. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

~~E.13~~D.13 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.

~~E.14~~D.14 To ensure that the authority's IT Standards issued by the appropriate Head of Service are observed, and that in particular all computerised data, computer equipment and software are protected from loss and damage through theft, vandalism, etc.

~~E.15~~D.15 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

## **Income**

### *Responsibilities of the CFO*

~~E.16~~D.16 To agree arrangements for the collection of all income due to the authority, and to approve the procedures, systems and documentation for its collection.

~~E.17~~D.17 To provide advice to Chief Officers on the statutory regulations which relate to the collection and accounting of income.

~~E.18~~D.18 To assess and approve the form of receipts used.

~~E.19~~D.19 To undertake weekly reconciliations of all deposits to the authority's bank accounts.

~~E.20~~D.20 To provide an accounting system which records income and provides relevant information to Chief Officers so that income can be monitored.

~~E.21~~D.21 To maintain a Value Added Tax (VAT) account and supply HM Revenues & Customs (HMRC) with such details, explanations and statutory returns as required.

~~E.22~~D.22 To provide a system for the collection and control of credit income, and of sundry debts.

~~E.23~~D.23 To create, monitor and maintain a provision for bad and doubtful debts.

D.24 To annually review the policy for writing off debts and the terms of credit. The Cabinet is responsible for approving the procedures for writing off debts as part of the overall control framework of accountability and control.

~~E.24~~D.25 To ~~recommend~~approve to the CFO all debts to be written off up to the value of £200,000 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.

~~E.25~~D.26 To obtain the approval of ~~the CFO~~Cabinet when writing off debts in excess of ~~the approved limit~~£200,000, ~~and the approval of the Cabinet where required.~~

~~E.26~~

### Responsibilities of Chief Officers

~~E.27~~D.27 To establish proposals for a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.

~~E.28~~D.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

~~E.29~~D.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

~~E.30~~D.30 To issue official receipts or to maintain other documentation for income

~~E.31~~D.31 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

~~E.32~~D.32 To hold securely receipts, tickets and other records of income for the appropriate period.

~~E.33~~D.33 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

~~E.34~~D.34 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 and the ledger system on a regular basis appropriate to the level of transactions

~~E.35~~D.35 To ensure income is not used to cash personal cheques or other payments.

~~E.36~~D.36 To supply the CFO with details relating to work done, goods supplied, services rendered or other amounts due, to enable the CFO to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do



this, Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the CFO. Chief Officers have a responsibility to assist the CFO in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.

E.37D.37 To keep a record of any transfer of money between employees. The receiving Officer must sign for the transfer and the transferor must retain a copy.

E.38D.38 To notify the CFO of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO.

## **Ordering and Paying for Work, Goods and Services**

### *Responsibilities of the CFO*

E.39D.39 To ensure that all the authority's financial systems and procedures are sound and properly administered.

E.40D.40 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

E.41D.41 To approve any changes to existing financial systems and to approve any new systems before they are introduced.

E.42D.42 To approve the form of official orders and associated terms and conditions.

E.43D.43 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.

E.44D.44 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.

E.45D.45 To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

E.46D.46 To provide advice and encouragement on making payments by the most economical means.

E.47D.47 To provide, as necessary, cash change floats, and approve and set up bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts.

E.48D.48 To maintain a record of all such cash floats and bank imprest accounts, and periodically to review the arrangements for the safe custody and control of them.

### Responsibilities of Chief Officers

E.49D.49 To ensure that unique numbered official orders are used for all goods and services, wherever possible.

E.50D.50 To ensure official orders are not used to obtain goods or services for private use.

E.51D.51 To ensure that only those designated staff initiate or authorise orders and to maintain an up-to-date list of such designated staff, identifying authorisation limits. 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.

E.52D.52 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. Where possible a different Officer from the person who authorised the order should always carry out this check. If appropriate, entries should then be made in inventories or stores records.

E.53D.53 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming that:

- (a) The goods or services have been received
- (b) The invoice has not previously been paid
- (c) The expenditure has been properly incurred and is within budget provision
- (d) Prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
- (e) Tax has been correctly accounted for
- (f) The invoice is correctly coded
- (g) Discounts have been taken where available
- (h) Appropriate entries will be made in accounting records

E.54D.54 For the avoidance of doubt, no pre-payment for goods, services or suppliers shall be allowed above the value of £5,000, without the prior written consent of the CFO and the Head of Service Legal, and Democratic Services.

E.55D.55 To ensure no Officer authorises a payment to her or himself, and where practical no Officer should authorise an invoice for which the Officer raised the order.

E.56D.56 To ensure controls are regularly reviewed to verify they are in place and adequate for the efficient management of the system, which enables invoices to be examined, verified and authorised as properly payable

E.57D.57 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 Chief Internal Auditor unless a written

explanation giving the reason is attached. Any copy invoice must be clearly marked by the supplier that it is a copy.

~~E.58~~D.58 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 CFO.

~~E.59~~D.59 To ensure that the Council obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the authority's contract procedure rules.

~~E.60~~D.60 To utilise any established central purchasing procedures in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the authority's contract procedure rules.

~~E.61~~D.61 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).

~~E.62~~D.62 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the CFO. 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.

~~E.63~~D.63 To notify the CFO of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the CFO.

~~E.64~~D.64 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the CFO, the systems and procedures to be adopted in relation to financial aspects, including:

- (a) Certification of interim and final payments
- (b) Checking, recording and authorising payments
- (c) Monitoring and controlling capital schemes
- (d) Validation of subcontractors' tax status

~~E.65~~D.65 To notify the CFO immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

~~E.66~~D.66 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

~~E.67~~D.67 To ensure that employees operating an imprest account:

- (a) Obtain and retain vouchers to support each payment from the imprest account, including where appropriate an official receipted VAT invoice
- (b) Make adequate arrangements for the safe custody of the account
- (c) Produce upon demand by the CFO cash and all vouchers to the total value of the imprest amount
- (d) Record transactions promptly

- (e) Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) Provide the CFO with a certificate of the value of the account held at 31 March each year, detailing the breakdown between cash at bank, cash in hand, petty cash floats advanced and vouchers.
- (g) 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
- (h) On leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the CFO for the amount advanced to him or her.

## **Payments to Employees and Members**

### *Responsibilities of the CFO*

~~E.68~~D.68 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.

~~E.69~~D.69 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

~~E.70~~D.70 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

~~E.71~~D.71 To make arrangements for paying Members travel or other allowances.

~~E.72~~D.72 To provide advice and encouragement to Members, Chief Officers and employees in order to secure payment of allowances, salaries and wages by the most economical means.

~~E.73~~D.73 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

### *Responsibilities of Chief Officers*

~~E.74~~D.74 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.

~~E.75~~D.75 To notify the CFO 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 CFO.

~~E.76~~D.76 To ensure that adequate and effective systems and procedures are operated, so that:

- (a) Payments are only authorised to bona fide employees
- (b) Payments are only made where there is a valid entitlement

- (c) Conditions and contracts of employment are correctly applied
- (d) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness

E.77D.77 To ensure that only those staff designated by them initiate or authorise payroll documentation and to maintain a list of such designated staff, including where appropriate specimen signatures identifying in each case the limits of their authority.

E.78D.78 To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the CFO.

E.79D.79 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 CFO is informed where appropriate.

E.80D.80 To ensure that the CFO is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

E.81D.81 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### Responsibilities of Members

E.82D.82 To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

## **Taxation**

### Responsibilities of the CFO

E.83D.83 To complete all HMRC returns regarding PAYE.

E.84D.84 To complete a monthly return of VAT inputs and outputs to HMRC.

E.85D.85 To provide details to HMRC regarding the construction industry tax deduction scheme.

E.86D.86 To advise Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority, and to maintain up-to-date guidance for all authority employees on taxation issues.

### Responsibilities of Chief Officers

~~E.87~~D.87 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

~~E.88~~D.88 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

~~E.89~~D.89 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.

~~E.90~~D.90 To follow the guidance on taxation issued by the CFO.

## **Quasi Commercial operations**

### *Responsibilities of the CFO*

E.91D.91 To advise on the establishment and operation of trading accounts and business units.

### *Responsibilities of Chief Officers*

E.92D.92 To consult with the CFO where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

E.93D.93 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.

E.94D.94 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

E.95D.95 To ensure that each business unit prepares an annual business plan in accordance with published guidelines.

## **F.4E: EXTERNAL ARRANGEMENTS**

### **Partnerships**

#### *Responsibilities of the CFO*

**F.4E.1** To advise on effective controls that will ensure that resources are not wasted.

**F.4E.2** To advise on the key elements of funding a project including:

- (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.4E.3** To ensure that the accounting arrangements are satisfactory.

#### *Responsibilities of Chief Officers*

**F.4E.4** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the CFO.

**F.4E.5** To ensure that, before entering into agreements with external bodies, appropriate approvals have been obtained and a risk management appraisal has been prepared for the CFO.

**F.4E.6** To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

**F.4E.7** To ensure that all agreements and arrangements are properly documented.

**F.4E.8** To provide appropriate information to the CFO to enable a note to be entered into the authority's statement of accounts concerning material items.

**F.4E.9** To ensure proper authority is obtained for the creation of any company, or any interest in a company, upon the following provisos:

- i. Cabinet authority – where the interest is within the Policy Framework, a minority one, there is limited liability, less than 20 per cent board membership and the CFO and the Head of Service Legal, and Democratic Services have no financial or legal concerns;
- ii. Council authority – any other situation.



## **External Funding**

### *Responsibilities of the CFO*

~~F.10~~E.10 To ensure that any match-funding or partnership funding requirements are considered prior to entering into agreements and that future revenue budgets reflect these requirements and that these issues are fully considered before bids are submitted.

~~F.11~~E.11 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

~~F.12~~E.12 To ensure that audit requirements are met.

### *Responsibilities of Chief Officers*

~~F.13~~E.13 To consult with the CFO and the relevant Cabinet Member before any bid for any external funds is submitted

~~F.14~~E.14 To ensure that when a bid is successful, relevant amendments are made to the appropriate capital and revenue budgets, and that all necessary capital and revenue approvals are obtained before any expenditure is incurred or any commitment is made.

~~F.15~~E.15 To consider any future commitments that arise after the period of external funding ceases and agree a written exit strategy in order to avoid unplanned future commitments or provide a robust financial plan to fund any approved future commitments after the period of external funding ceases. .

~~F.16~~E.16 To ensure that all claims for funds are made by the due date.

~~F.17~~E.17 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **Work for Third Parties**

### *Responsibilities of CFO*

~~F.18~~E.18 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### *Responsibilities of Chief Officers*

~~F.19~~E.19 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.

~~F.20~~E.20 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the CFO.

~~F.21~~E.21 To ensure that appropriate insurance arrangements are made.

~~F.22~~E.22 To ensure that the authority is not put at risk from any bad debts.

~~F.23~~E.23 To ensure that no contract is subsidised by the authority.

~~F.24~~E.24 To ensure that, wherever possible, payment is received in advance of the delivery of the service.

~~F.25~~E.25 To ensure that the business unit has the appropriate expertise to undertake the contract.

~~F.26~~E.26 To ensure that such contracts do not impact adversely upon the services provided for the authority.

~~F.27~~E.27 To ensure that all contracts are properly documented.

~~F.28~~E.28 To provide appropriate information to the CFO to enable a note to be entered into the Financial Statements.

## **APPENDIX 1 – COUNCIL CAPITAL BOARD TERMS OF REFERENCE**

### **General**

- ~~2.1.~~ To oversee and endorse Develop the Council's Capital Strategy.
- ~~2.~~ To own and oversee the development of, Commission the Council's Capital Programme for both the General Fund and the Housing Revenue Account. Through doing so, and taking a long-term view, the Board should ensure that both individual projects and the programme as a whole is affordable and fits with the Council's vision and priorities as laid out in the Council Plan and other inter-linked plans and strategies.
- ~~3.~~ Discuss and recommend actions around developing capital issues
- ~~4.~~ Review the capital receipts position
- ~~5.~~ Review the assets disposal plan
- ~~6.~~ On an annual basis recommend the tolerance levels for project variations in time to allow the Financial Procedure Rules to be updated and approved by Council
- ~~3.7.~~ Periodically review the strategic fit of projects
- ~~4.8.~~ To develop and regularly review the processes to support a strategic approach to capital investment planning which will justify investment decisions, taking account of the Council priorities within the resources available.
- ~~5.9.~~ To operate according to the approved processes for consideration of all capital expenditure and for new proposed capital projects.
- ~~6.10.~~ To operate as a critical gateway for capital projects put forward for endorsement of concept and for ultimate commitment by the Council.

### **On An A-Bi-Annual Basis**

- ~~7.11.~~ To receive and prioritise bids for inclusion in the Council's Capital Programme.
- ~~8.~~ To prioritise all bid submissions.
- ~~9.12.~~ To format a multiyear capital programme taking into account projected available resources for submission to Cabinet and or Council.
- ~~13.~~ Monitor the performance of the capital programme overall ~~Receive capital monitoring reports~~ (financial and performance information).
- ~~10.14.~~ Monitor the performance of strategic and high risk projects
- ~~11.15.~~ Receive asset disposal programme update.

### **Initially Monthly**

- ~~12.16.~~ Consider all requests for in - year additions and changes to the Capital Programme that are not Officer delegated decisions, in accordance with the limits set out in the Financial Procedure Rules.

~~13.17.~~ To review all in - year additions and changes to the Capital Programme that have been made as Officer delegated decisions, in accordance with the limits set out in the Financial Procedure Rules.

~~14.18.~~ To oversee, monitor and authorise the progression of capital projects through key stages (to include receiving reports from established project, programme or capital boards as appropriate, and approving variations to schemes).

### **On an Adhoc Basis**

~~15.19.~~ Review prioritisation and adequacy of existing scoring mechanism.

~~16.20.~~ Review systems of pre-project evaluation including project appraisal and business case justification.

~~17.21.~~ Review systems of post project evaluation and application to all completed schemes.

~~18.22.~~ To review at appropriate points major projects during the construction stage.

~~19.23.~~ To receive post-implementation review presentations after the completion of major projects.

### Membership

~~Leader of the Council~~

~~Cabinet Member for Resources (Chair)~~

~~Leader of the Council~~

~~Cabinet Member for Education & Change~~

~~Councillor Supporting Cabinet Member for Resources~~

~~Chief Executive~~

~~Assistant Chief Executive~~

~~Chief Financial Officer~~

~~Deputy Chief Financial Officer~~

~~Assistant Chief Executive~~

~~Head of Property & Procurement~~

~~*Attendees as Required / Requested*~~

~~Directors~~

~~Cabinet Members~~

~~Project / Programme Managers~~

## **APPENDIX 2 – GUIDANCE ON SCHEME APPROVAL REPORTS**

All capital investment will be commissioned by the Council Capital Board. This will enable any expenditure and its funding to be better aligned with the Council and City priorities as well as that of other partners and funding sources. These partners, from both the public and private sector will be at both a regional level and also at a district level.

Once initial strategic capital requirements have been identified and prioritised, full business cases will be commissioned for the highest priority projects.

The Council is currently reviewing its programme management arrangements including a review of the documentation being utilised. It is anticipated that project management documentation will be adapted to ensure it can be utilised for capital projects and for review by the Council Capital Board.

For proposals initially commissioned by the Council Capital Board the following approvals process will be put in place:

a) Outline Business Case (OBC) which will focus on options appraisal and quantifiable outcomes.

b) Full Business Case (FBC) – the final investment decision. This will focus on the how the priorities set out in the OBC will be delivered, including:

I. Project description - This should provide sufficient detailed information in order to give an understanding of what the scheme involves, including the need for and urgency for the work. For example where the scheme involves a programme of works such as "improvements to" or "replacements to" give some indication of where and when the work is to take place. It is insufficient to simply restate the scheme description as contained in the capital programme.

II. Consultation undertaken.

III. Expenditure and funding including whole life costs and revenue implications. This should be based on an agreed design and specification. It should also include an allowance for fees, contingencies and inflation. A risk based assessment should be applied to the costs and an indication of the potential range of costs included where appropriate. If there is scheme specific external funding, for example third party grants or capital receipts to be generated, this must be identified and any risks to the receipt of this money made clear.

IV. Summary of what the scheme will provide in terms of outputs.

V. Any further option appraisal

VI. Value for Money – including whether there are any revenue implications other than capital financing costs. Where savings are generated the use of the saving must be specified and where there are extra costs there must be a clear statement of how these will be funded. Any impact on fees and charges, either varying existing charges or introducing new ones, must also be specified.

VII. Delivery

VIII. Timescales - Project start and finish dates plus any key milestones or review dates. This is particularly important where a scheme approval covers several financial years.

IX. Risk Management

X. Sustainability, Forward strategy and evaluation

XI. Asset Management

XII. Procurement - The proposed procurement regime to be followed where contracts are to be let, in consultation with the Senior Manager Property, Procurement and Contract Management, and the intended start and completion dates, for each management stage of the scheme.

XIII. Equality Impact Assessment

XIV. Environmental Impact Assessment

XV. Any approvals or consents that are required from Government Departments or third parties.

c) Change Requests where delegated tolerance levels will be exceeded.

For proposals that are identified by officers there will be an initial extra step in the process, which will be undertaken on an annual basis:

XVI. Concept Outline – this will cover the initial concept idea, potential costs and funding sources, links to the Council Strategy and the City Plan, how outcomes will be improved.

It should be made clear that these will be the exception and the main focus will be on projects commissioned by the Council Capital Board.

Where there is already an agreed asset management plan the Council Capital Board can choose to request elements of the above business case come forward as they see fit.

How projects will be appraised

Capital Projects will be appraised using the following criteria:

1. Does the project deliver or facilitate the delivery of a strategic priority?
2. Is it worth planning – is it value for money?
3. Can we afford to progress the project and commit funding?
4. Does the project stimulate or add to economic growth?

Business cases will be appraised by a small team of officers prior to being received by the Council Capital Board. The team should consist of a finance, legal, property, and strategy officer. The team will make recommendations to the Council Capital Board having appraised the scheme using the above criteria.

This guidance is issued under Financial Procedure Rule B.33 and applies to all reports that seek approval to spend sums in the Capital Programme. It should be noted that seeking scheme approval is only one of the activities needed to proceed with a capital scheme. This guidance must be read in conjunction with the whole of the Constitution and any other Council Standards. Full details of the Councils project management

~~requirements can be found on the Sharepoint site. This will be updated in line with changes in business needs.~~

~~For all "gold" and "silver" capital schemes, (as assessed under PM Connect rules), in order to comply with Financial Procedure Rules a full Gateway 3 Project Initiation Document must be available and approved. As this is not available to Members / Decision Takers as part of the scheme approval report the scheme approval report itself must contain, as a minimum, the following summarised information and provide a link to where the reader can obtain the full PID documentation:~~

- ~~(a) Project description. This should provide sufficient detailed information in order to give an understanding of what the scheme involves, including the need for and urgency for the work. For example where the scheme involves a programme of works such as "improvements to" or "replacements to" give some indication of where and when the work is to take place. It is insufficient to simply restate the scheme description as contained in the capital programme.~~
- ~~(b) The proposed procurement regime to be followed where contracts are to be let, in consultation with the Senior Manager Property, Procurement and Contract Management, and the intended start and completion dates, for each management stage of the scheme.~~
- ~~(c) Summary of what the scheme will provide in terms of outputs.~~
- ~~(d) Latest estimated costs including the phasing over financial years. This should be based on an agreed design and specification. It should also include an allowance for fees, contingencies and inflation. A risk based assessment should be applied to the costs and an indication of the potential range of costs included where appropriate.~~
- ~~(e) Available budget provision.~~
- ~~(f) Statement of how any difference between latest and budgeted costs will be dealt with.~~
- ~~(g) If there is scheme specific external funding, for example third party grants or capital receipts to be generated, this must be identified and any risks to the receipt of this money made clear.~~
- ~~(h) Any approvals or consents that are required from Government Departments or third parties.~~
- ~~(i) Confirmation that there is still capital funding available to meet the latest estimated costs.~~
- ~~(j) Whether there are any revenue implications other than capital financing costs. Where savings are generated the use of the saving must be specified and where there are extra costs there must be a clear statement of how these will be funded. Any impact on fees and charges, either varying existing charges or introducing new ones, must also be specified.~~
- ~~(k) Details of the staffing and any other internal resource requirements to deliver the scheme as appropriate.~~

~~(l) Project start and finish dates plus any key milestones or review dates. This is particularly important where a scheme approval covers several financial years.~~

~~(m) A risk analysis if appropriate.~~

~~(n) Performance standards / quality standards for the project if appropriate.~~

~~(o) Legal powers.~~

~~For “bronze” capital schemes, the scheme approval report must contain all the above information but there is no need to refer to PM Connect documents. The information in the scheme approval report must therefore be sufficiently detailed to meet the scheme approval requirements and to enable the post contract completion assessment to be undertaken.~~





### Officer Employment Procedure Rules

*These Officer Employment Procedure Rules embody the requirements of the Local Government and Housing Act 1989, the Local Authorities (Standing Orders) Regulations 1993, and the Local Authorities' (Standing Orders) (England) Regulations 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, which require the adoption of certain Standing Orders. These Employment Procedure Rules constitute those Standing Orders.*

1. In these Rules –

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;

"Executive" and have the same meaning as "Executive" and "Executive Leader" in Part II of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the functions and duties contained within Section 112 Local Government Act 1972, including the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:–

- (a) the officer designated as the Head of Paid Service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the Head of Paid Service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must

approve that dismissal before notice of dismissal is given to him.

- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the Executive must be a member of that committee or sub-committee.
- 5.
- (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
  - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until –
    - (a) the appointor has notified the proper officer, Head of Strategic HR, of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
    - (b) the proper officer has notified every member of the Executive of the authority of –
      - (i) the name of the person to whom the appointor wishes to make the offer;
      - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
      - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Executive to the proper officer; and
    - (c) either –
      - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any other member of the Executive has any objection to the making of the offer;
      - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
      - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 6.
- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
  - (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until –
    - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
    - (b) the proper officer has notified every member of the Executive of the

authority of –

- (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and
  - (c) either –
    - (i) the Leader has, within the period specified in the notice under subparagraph (b)(iii), notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
8. In paragraph 9, "Chief Financial Officer", "council manager", "disciplinary action", "Head of Paid Service" and "Monitoring Officer", are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2004-15 and "~~designated~~relevant independent person" has the same meaning as in regulation 74 of those Regulations.
9. No disciplinary action in respect of the Head of Paid Service (unless ~~they are~~ also a council manager of the authority), its Monitoring Officer or its Chief Financial Officer, except action described in paragraph 10, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with ~~a recommendation in a report made by a designated independent person under regulation 7 of~~ the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2004-15 (investigation of alleged misconduct). This includes the appointment of an Independent Panel and the decision maker having regard to (i) any advice, views and recommendations of the panel, (ii) the conclusions of any investigation into the proposed dismissal and (iii) any representations from the relevant officer
10. The action mentioned in paragraph 9 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
11. Recruitment and appointment
- a. Declarations
    - i. The Full Council, a duly authorised Committee, Sub-Committee, or an

Officer acting under delegated powers (as appropriate) will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor- or officer of the Council; or of the partner of such persons.

- ii. No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- b. Seeking support for appointment.
  - i. 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 provided that Councillor has no role in the decision process of recruitment / appointment to that position.

#### 12. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Head of Paid Service or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- a. draw up a statement specifying:
  - i. the duties of the officer concerned; and
  - ii. any qualifications or qualities to be sought in the person to be appointed;
- b. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- c. make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

#### 13. Dismissal

Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.



### PROTOCOL FOR THE MONITORING OFFICER

#### A General introduction to statutory responsibilities

1. The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Southampton City Council.
2. The current responsibilities of the Monitoring Officer role rest with the Head of Legal and Democratic Services~~Director of Corporate Services~~, who undertakes to discharge his statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. The ~~deputy~~ Monitoring Officer will appoint a Deputy Monitoring Officer as appropriately needed~~is the Head of Legal & Democratic Services~~. In doing so, he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
  - a. complying with the law of the land (including any relevant Codes of Conduct);
  - b. complying with any General Guidance issued, from time to time, by the Governance Committee and the Monitoring Officer;
  - c. making lawful and proportionate decisions; and
  - d. generally, not taking action that would bring the Council, their offices or professions into disrepute.

#### B Working Arrangements

4. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his staff) in discharging these responsibilities.
5. The Monitoring Officer issues guidance to officers to assist them in understanding the nature, breadth and requirements that the Monitoring Officer puts upon all officers. The guidance also explains how the Monitoring Officer will approach the role. The Monitoring Officer considers that the role is a positive and preventative one, related to legality, avoidance of maladministration and observance of codes of conduct / practice where there is actual / potential transgression by the Council. The Monitoring Officer gives authoritative advice and guidance on these issues which will be conducive to a culture of propriety and integrity. This will provide comfort for officers and Members alike. However, although the Monitoring Officer will seek to be positive about the role, it must be recognised that the role imposes a personal duty to make a public, statutory report where it appears to be necessary. This might ultimately force the authority to consider issues it might not wish to.

The Monitoring Officer and the authority should co-operate in everyway possible so as to reduce the chance of the need for the Monitoring Officer to issue a formal

report. In support of this, the Monitoring Officer places significant reliance upon the advice and support given by colleagues in Legal and Democratic Services, but particularly those in the Corporate Legal Team who will, in providing corporate legal advice do so in an enabling manner, but also identify areas of particular risk and concern, assisting officers / Members to achieve their objectives, but ultimately in a lawful and proper manner.

6. The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

- a. be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- b. have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council, including joints bodies, partnerships, etc at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team~~Board of Directors~~ (or equivalent arrangements);
- c. have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team~~Board of Directors~~ (or equivalent arrangements);
- d. be a member of Corporate Management Team~~Board of Directors~~, and as such has advance notice of those meetings, the agenda and reports and a right to attend and speak;
- e. in carrying out any investigation(s) have unqualified access to any information held by the City Council and to any Officer who can assist in the discharge of his functions;
- f. ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- g. meet regularly with the Head of Paid Service and the Chief Financial Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- h. 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 Financial Officer;
- i. as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he requires to discharge his statutory functions;
- j. have a special relationship of respect and trust with the Mayor, Sheriff, Leader, Group Leaders and Chairs of the committees, sub-committees and panels with a view to ensuring the effective and efficient discharge of Council business;
- k. develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf

of the City Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council;

- l. maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
- m. give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the GovernanceStandards Committee (unless the Chair of GovernanceStandards Committee agrees a report is not necessary);
- n. in consultation, as necessary, with the Mayor, GovernanceStandards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- o. have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
- p. subject to the approval of the GovernanceStandards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and
- q. appoint a deputy and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer;
- r. have responsibility for Local Government Ombudsman and whistle-blowing functions of the authority;
- s. ensure that Members and Officers of the authority are fully aware of their obligations in relation to probity.

The Head of Legal & Democratic Services will be the Proper Officer for Access to Information, decision-making, Data Protection Act 1998 and the Freedom of Information Act 2000.

- 7. To ensure the effective and efficient discharge of these arrangements, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 8. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.
- 9. To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place to safeguard the interests of the City Council and the proper discharge of the Monitoring Officer role.

#### **C Sanctions for breach of Southampton's Code of Conduct for Members and this Protocol**

- 10. Complaints in relation to a breach of the Code of Conduct for Members must be referred to the GovernanceStandards Committee, Complaints against any Member for a breach of this Protocol will be referred to the GovernanceStandards Committee.

#### **D Monitoring the Protocol**

11. The Monitoring Officer will report to the Governance Committee as to whether the arrangements set out in this Protocol have been complied with and will include any proposals for amendments in the light of issues which have arisen.

#### **E Conflicts and Interpretation**

12. Where the Monitoring Officer has received a complaint or is aware of an event which may lead to him issuing a statutory report relating to a matter upon which he has previously advised the Council, he shall consult the Chief Executive who may then either refer the matter to the deputy Monitoring Officer for investigation and report to the Chief Executive, or ask a neighbouring authority to make their Monitoring Officer available to investigate the matter and report to the Chief Executive and/or the authority as appropriate.
13. Questions of interpretation of this guidance will be determined by the Monitoring Officer.

#### **F Protocol for the Monitoring Officer**

14. This Protocol was approved by Full Council for inclusion within the Council's Constitution on 20<sup>th</sup> May 2015~~16<sup>th</sup> May 2012~~.



## SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
3	Appointment of Deputy and power to delegate.	Local Government & Housing Act 1989 s 5, Local Government Act 2000 s 82A (as inserted by the Local Government Act 2003 s 113).
4	Power to delegate	Local Government Act 2000 s 82A.
5	Report on resources.	Local Government & Housing Act 1989 s5.
6	Receive copies of whistle-blowing allegations of misconduct.	Code of Members' Conduct
7	Investigate misconduct in compliance with Regulations and directions of Ethical Standards Officers.	Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, SI 2003/1483 as amended by SI 2004/2617. Directions when made in individual cases. Local Government Act 2000 s 66(1), 66(6).
8	Establish and maintain registers of Members' interests and gifts and hospitality.	Local Government Act 2000 s 81 and Code of Members' Conduct.
9	Advice to Members on interpretation of Code.	Code of Members' Conduct.
10	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Statutory Guidance paragraph 8.20.
11	Compensation for maladministration.	Local Government Act 2000 s 92.
12	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.	Department for Communities & Local Government, Local Government Ombudsman, Standards Board for England guidance.

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### PART 10: OFFICER SCHEME OF DELEGATION AND ASSOCIATED DOCUMENTATION, RULES & GUIDANCE



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## GENERAL NOTES

NB: These notes form part of the Register of Delegated Powers

1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
2. The exercise of a delegated power, duty or function shall:
  - a. be subject to the City Council's Policy Framework and/or Budget;
  - b. be subject to any Special Procedure and/or Protocol;
  - c. be subject to the requirements of the Constitution and Corporate Standards; and
  - d. be subject to the requirements of the Council Procedure Rules, Financial Procedure Rules, Contract Procedure Rules, Corporate Standards and any delegations contained therein.
3. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:
  - a. such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;
  - b. such authorisations should only be given where there is significant administrative convenience in doing so;
  - c. the officer authorised by the other should act in the name of the officer who received the original delegation;
  - d. no authorisation may be given if the statute or law prohibits it.

Authorisations of this kind should not be considered to be norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation. Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.

4. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
5. Any reference to any Act of Parliament includes reference to Regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
6. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
7. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
8. Delegations to officers are subject to:
  - a. the right of the delegating body to decide any matter in a particular case;
  - b. the officer may, in lieu of exercising his/her delegated power, refer to the delegating body for a decision; and
  - c. any restrictions, conditions or directions of the delegating body.

## GENERAL NOTES

9. In exercising delegated powers, the officer shall:
  - a. take account of the requirements of the Corporate Standards and Special Procedures and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - b. shall exercise the delegation so as to promote the efficient, effective and economic running of that Division, Directorate and the Council, and in furtherance of the Council's visions and values; and
  - c. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
10. Except where otherwise expressly provided either within this Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
11. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Head of Service.
12. The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Head of Legal & Democratic Services, and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register before solely relying on this document.
13. The Head of Legal & Democratic Services shall have the power to amend this Register to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.
14. Any post specifically referred to below shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Register in anticipation of any reorganisation may be exercised in accordance with the preceding Register to the date of that reorganisation.
15. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
16. Where a power or duty is delegated to an officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
17. All enquiries about this register should be made to the Head of Legal & Democratic Services.
18. All matters of interpretation of this document will be determined by the Head of Legal & Democratic Services.

## GENERAL NOTES

19. If a matter is delegated to an officer, but that delegation cannot be implemented, that should be reported to the delegating body.
20. Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
21. Non-executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any function that is not therefore specified must be assumed to be executive.
22. Advice on procedures, and matters to be taken into account in exercising officer delegated powers, is set out in the Guidance on Decision-Making issued by the Head of Legal & Democratic Services.
23. This Scheme of Delegated Powers was approved as part of the Council's Constitution on 4<sup>th</sup> June 2014. Ad hoc additional revisions will be considered by the Council as appropriate and page revision numbers indicated on replacement pages.
24. For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees cost or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
25. Delegations for Heads of Service can also be exercised by their relevant Director.

**1.1 DIRECTORS AND HEADS OF SERVICE**

- 1.1.1 If a function, power or responsibility has not been specifically reserved to the Council, a Committee or the Executive, the Head of Service within whose remit the matter falls is authorised to act.
- 1.1.2 The Council, its Committees and the Executive will make decisions on matters of significant policy. Heads of Service are given express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.1.3 Heads of Service are empowered to take all routine and day-to-day operational service decisions within agreed policies provided they are met from within overall approved budgets in relation to the services for which they are responsible, subject to any other requirements imposed by the Constitution (eg Financial Procedure Rules).
- 1.1.4 In relation to all delegated authorities conferred on Heads of Service, by this Constitution, the Chief Executive may allocate or reallocate responsibility for exercising particular powers in the interests of effective corporate management as he or she thinks fit.
- 1.1.5 Where there is doubt over the responsibility for the exercise of the delegated power, the Chief Executive or his or her nominee is authorised to act.
- 1.1.6 Heads of Service are empowered to take all decisions necessary to give effect to implement the contents of any approved Policy Framework plan, in relation to the services for which they are responsible, and within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.1.7 Heads of Service may take any action on urgent matters which would otherwise require reference to, or consultation with, the Council, a committee or the Executive if there is no such time for such reference or consultation to be made and provided the Chief Executive, Chief Financial Officer or Head of Legal & Democratic Services (or their nominees) agree to the proposed course of action before it is decided. All such decisions shall be reported to the next meeting of the Council, Committee or Executive.
- 1.1.8 Heads of Service may set, approve or vary, following consultation with the relevant Cabinet Member, Chief Financial Officer and the Head of Legal & Democratic Services, the scale of fees and charges for all services within their Directorate or

## PART 1 –DIRECTORS AND HEADS OF SERVICE

Division. The revised scale of fees and charges must be made available on the Council's internet and/or be available in paper form on request.

- 1.1.9 Heads of Service may write off debt, following consultation with the Chief Financial Officer, in line with guidance that will be issued and updated from time to time by the Chief Financial Officer.
- 1.1.10 Heads of Service shall have authority to act under all current or future legislation and Council plans, policies, guidelines and procedures relating to their services and functions managed, operated and controlled by them or their Heads of Service, and shall have the authority to vary or change their services or functions following consultation with the Chief Executive (where there are Head of Paid Service issues), and the Chief Financial Officer or Head of Legal & Democratic Services where legislation, regulations, orders or guidance subsequently issued by Ministers in relation to such services or functions require a change in service delivery greater than “de minimus”.
- 1.1.11 Heads of Service shall have the authority and may authorise officers within their functional responsibilities to undertake activities and have powers to undertake those activities including (but not limited to) powers of entry, in accordance with relevant legislation as advised from time to time by the Head of Legal & Democratic Services.
- 1.1.12 Heads of Service will undertake all and any functions and tasks necessary in support of or related to supporting approved partnerships and joint working. For the avoidance of doubt, this should include joint working with other public bodies and agencies, including NHS Trusts and associated bodies, other local authorities and other appropriate bodies. Such organisations may also include representatives of the private sector. This would include Solent LEP, Partnership for Urban South Hampshire (PUSH) and Transport for South Hampshire (TfSH).
- 1.1.13 To respond to consultations and requests for submissions, including responses to calls for funding proposals, from European, Government Departments in relation to Domestic, International and European Service activities.
- 1.1.14 To respond to consultations and requests for submission from Government Departments, other local authorities, international, European, academic, research, business representatives and other bodies in respect of: provision and sharing of data and research initiatives; policies, strategies and plans; performance and partnership working.
- 1.1.15 Following consultation with the Head of Legal & Democratic Services and Chief Financial Officer, to submit bids for or tenders involving funding or assistance from



## PART 1 –DIRECTORS AND HEADS OF SERVICE

central government, the European Commission or from any other source (direct or indirect to the council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to SRB and lottery bids, but also to any new schemes as yet not in place, and is thus framed broadly and should apply in the same way).

### Note

1. This section of the scheme of delegation should be interpreted widely to aid the smooth running of the organisation and effective deployment of resources and the efficient delivery of services.
2. In determining the services for which Heads of Service are responsible, regard should be had to Article 11 of the Council's Constitution which sets out the functions and areas of responsibility for each of the Heads of Service.

### MAY ONLY BE EXERCISED BY A DIRECTOR AS THE NOMINEE OF THE CHIEF EXECUTIVE

- 1.1.16 The appointment or dismissal of a Deputy Chief Officer.

### **Employment Matters**

#### **General Authority**

- 1.1.17 To take action under the Council's HR Policies and Procedures, including any work associated with consequential appeals, whether within the Council or otherwise.
- 1.1.18 To appoint officers for the implementation of the Council's functions as prescribed by Procedure Rules and Recruitment Policy.
- 1.1.19 To execute works in default of compliance of any statutory notice served and to demand the recovery of expenses incurred by the local authority.
- 1.1.20 To service notice requiring payment for works carried out in default.

### **Structures and Establishments**

- 1.1.21 To authorise and implement changes in structures or establishments, or to the movement of posts within career grades, where such changes lead to a reduction or no change in employee numbers (whole time equivalents) and costs, where no posts are regraded and where all arrangements are in line with the approved pay and allowances framework.

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NB: Any proposed change or variation to the approved pay and allowances framework may only be authorised by the Head of Strategic HR.

1.1.22 To delete posts from the organisational structure.

N.B Any other variations in the organisational structure are subject to approval from the appropriate Head of Service and Head of Strategic HR.

1.1.23 To agree an overlap period for the appointment of employees provided the necessary finance is available within divisional budgets.

1.1.24 To authorise the appointment of temporary employees provided that the necessary finance is available within divisional budgets or financed from external sources.

1.1.25 To authorise the employment or extension of employment of employees beyond 65 years of age in accordance with the conditions of service.

### **Pay and Benefits**

1.1.26 To approve and authorise overtime in accordance with the scheme of allowances as approved by the Head of Strategic HR, subject to the necessary finance being available.

1.1.27 To authorise attendance of employees on courses of study for an initial or second qualification, together with the granting of financial assistance towards approved expenses, in line with Council process and after consultation with the Head of Strategic HR.

1.1.28 Subject to budgetary provision, to approve the attendance of employees at conferences, courses and seminars.

1.1.29 To approve payment of subscriptions for membership of professional associations (only one per employee) when the job description specifies that such membership is obligatory.

1.1.30 To authorise subsistence payments in accordance with the Council's approved schemes.

1.1.31 To withdraw the payment of a telephone allowance.

1.1.32 To approve an occasional payment to an employee where a Directorate has a need for language interpretation and where an employee is willing and competent to do so, where the number of occasions on which the additional skills are required are minimal in accordance with the defined rate of payment, and to approve payment where either there is a substantial use of language interpretation skills or the Directorate requires the language skills to be made available on demand following consultation with the Head of Legal & Democratic Services.

## PART 1 –DIRECTORS AND HEADS OF SERVICE

### **Leave**

- 1.1.33 To authorise up to 18 days paid leave of absence per annum for employees undertaking public duties and to approve additional paid or unpaid leave up to a maximum of 10 days, after consultation with the Head of Strategic HR.
- 1.1.34 To authorise up to 28 days paid leave of absence per annum for employees undertaking duties as a Member of a relevant Council, as stipulated in the Local Government and Housing Act 1989.
- 1.1.35 To authorise leave of absence without pay for over three months for post entry training or for other reasons.
- 1.1.36 To grant compassionate leave of up to six days, in accordance with the guidance provided.
- 1.1.37 To grant compassionate leave in excess of six days, after consultation with the Head of Strategic HR.
- 1.1.38 To approve other special leave, with or without pay, after consultation with the Head of Strategic HR.

### **Sickness**

- 1.1.39 After consultation with the Head of Strategic HR, to grant extensions of sick pay in excess of two months at either full or half pay dependent on the circumstances.

### **Trade Union Facilities**

- 1.1.40 To decide each new request for paid time off work for trade union activities or for training or for time off work without pay for trade union duties, following consultation with the Head of Strategic HR.

### **Other Matters**

- 1.1.41 To pay expenses such as travel expenses, facilitators' expenses for disabled people, interpreters' expenses for non-English speakers and carers' expenses for people with caring responsibilities to enable participation at consultation meetings.
- 1.1.42 To undertake benchmarking, cost comparison and all activities associated with Best Value and to take all actions necessary and expedient to ensure best professional practice and Best Value.
- 1.1.43 To seek planning permission, conservation area consent and listed building consent in accordance with the Town and Country Planning Act 1990 and The Planning (Listed Buildings and Conservation Areas) Act 1990, subject to:

## PART 1 –DIRECTORS AND HEADS OF SERVICE

- i. the Head of Culture & Planning being given 14 days to comment on the proposal prior to the submission of the formal application; and
  - ii. the Head of Culture & Planning agreeing that the proposal was not in conflict with any planning policy of the Council and could be dealt with under delegated powers; if he did not agree his reasons to be given in writing.
- 1.1.44 Subject to the approval of the Head of Legal & Democratic Services, to enter into any lawful contract for the provision of services, goods or materials for another body where to do so is considered beneficial to the City Council.
- 1.1.45 To respond to any consultation or request for information from the Government or other body, following consultation with the relevant Cabinet Member.
- 1.1.46 To take any consequential action necessary or expedient in respect of a bid or tender involving funding or assistance from central government, the European Commission or from any other source.
- 1.1.47 To act in all matters associated with the delivery of regeneration and other programmes, partnerships or arrangements managed and delivered by external partnership bodies where the Council is the accountable body or is responsible for or is a significant stakeholder in the programme, partnership or arrangement, and in particular to do so following consultation with the appropriate board, other body responsible for the management of the programme, partnership or arrangement, and to seek and replace members of such bodies and the Cabinet Member.
- 1.1.48 To authorise all suitably qualified members of staff to carry out all powers delegated and to sign statutory notices on behalf of the Council, as may be required from time to time.
- 1.1.49 All powers necessary to effect the acquisition of services from other authorities or bodies and to set up joint, consortium or other bodies and panels to secure the provision of those services needed to discharge the functions of the Council.
- 1.1.50 To investigate and respond to all complaints, whether under the Council's Customer Complaints procedure or otherwise.
- 1.1.51 To dispose of any surplus equipment.
- 1.1.52 To undertake any preparatory work necessary on any project, scheme or other matter intended to be placed before the Executive, the Council, a Committee, Sub-Committee or Officer with appropriate delegated powers so that the Executive, Council, Committee Sub-Committee or Officer with appropriate delegated powers can, with the benefit of full background information and advice, determine whether or not to proceed with said project, scheme or other matter with or without variation.

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- 1.1.53 In the event of an emergency, to take any action as necessary.
- 1.1.54 To produce and revise Corporate Standards, Codes of Conduct, Special Procedures and Protocols and any other appropriate documentation, whether associated with the Constitution or not for Officers, Members and third parties as appropriate.
- 1.1.55 a. To settle ex-gratia payments of up to £ £2,000.
- b. In relation to the Customer Complaints Procedure, a complaint being considered by the Local Government Ombudsman, or matter being referred or considered by an Officer as instructed by the Chief Executive or by any third party tribunal or entity, to settle and make a payment of compensation, including (but not limited to) an ex-gratia payment of up to £10,000 following consultation with the Head of Legal & Democratic Services.
- 1.1.56 Subject to the caveats set out below, to implement the contents of approved Business Plans (including but not limited to) providing, varying the provision of, or initiating services or changes to service delivery:
- a. of expenditure up to £50,000;
- b. that any such exercise of this delegated power shall be recorded in writing and communicated within seven calendar days of its exercise to the relevant Head of Service (where they are not the delegatee) to the Head of Legal & Democratic Services and the appropriate Head of Service.
- 1.1.57 a. To incur routine expenditure within budgetary provision. (For the avoidance of doubt, “routine” expenditure includes items of a repetitive and largely unvarying nature such as the payment of salaries, purchase of minor office equipment and the like).
- b. To incur non-routine revenue expenditure within estimates.
- 1.1.58 To arrange visits, lectures and similar visits to publicise Council and City activities.
- 1.1.59 To make arrangements for managing and ensuring the quality of the information to be included within the Forward Plan in accordance with the Council’s Constitution, the Local Government Act 2000 and secondary legislation.
- 1.1.60 To grant a civic reception or luncheon subject to approval of the Head of Legal & Democratic Services who shall consult with the Mayor.
- 1.1.61 To authorise appropriate officers to administer formal cautions in respect of any criminal offence.

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- 1.1.62 Where a decision is required to be made by the Executive, following consultation with the community or part of a community, the relevant Head of Service is authorised to commence that consultation, following consultation with the relevant Cabinet Member, and thereafter the decision shall be reported back to the Executive for it to determine whether or not to proceed (including the results of that consultation).
- 1.1.63 Under the direction of the Head of Legal & Democratic Services , to take such action as is required or necessary in respect of commissioning, monitoring or approving all reports for submission to any decision-making body of the Council or any partner body.
- 1.1.64 As directed from time to time by the Communications Manager, to take such action as necessary in relation to internal or external communications.
- 1.1.65 To approve Members to attend courses, seminars, other training and conferences subject to consultation with the Head of Legal & Democratic Services.
- 1.1.66 Following consultation with the relevant Cabinet Member and Head of Legal & Democratic Services to make applications to the Secretary of State in respect of works on common land.

## 2.1 CHIEF EXECUTIVE

- 2.1.1 The appointment and dismissal of Deputy Chief Officers. This power can also be carried out by a Director nominated by the Chief Executive.
- 2.1.2 The Chief Executive shall be the Head of Paid Service as specified by Section 4 Local Government and Housing Act 1989 and shall be provided by the authority with such resources as he deems necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services. In addition the Head of Paid Service is the principal policy advisor to the Council and has a statutory duty, where he considers it appropriate to do so, to prepare a report to the authority setting out his proposals in respect of the following:
- 2.1.2.1 the manner in which the discharge by the authority of its different functions is co-ordinated;
  - 2.1.2.2 the number and grades of staff required by the authority for the discharge of its functions;
  - 2.1.2.3 the organisation of the authority's staff; and
  - 2.1.2.4 the appointment and proper management of the authority's staff.
- 2.1.3 Urgent Matters
- 2.1.3.1 The Chief Executive may decide that any Executive or non-Executive function, question or matter within the powers or duties of the Executive, the Council or any Committee or Sub-Committee is urgent and:
- a. a decision must be made before the next scheduled meeting of the Executive, Council or of the appropriate Committee or Sub-Committee; or
  - b. a recommendation to the Executive, Council or within the terms of reference of a Committee or Sub-Committee should be implemented prior to the next scheduled meeting of the Executive, Council, Committee or Sub-Committee by which it could be approved;
- in either case, if the Chief Executive is satisfied that it is not expedient, practicable or necessary in the circumstances to convene a special meeting of the Executive, Council or a special meeting or urgent business

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sub-committee meeting of the Committee or Sub-Committee in question then paragraph (2.1.3.2) shall apply.

2.1.3.2 The Chief Executive shall have the power (or may designate a Head of Service who will then have power) to determine the question or matter or to implement the recommendation (as the case may be) in the name of and without further reference to the Executive, Council or to the appropriate Committee or Sub-Committee.

2.1.3.3 The exercise by the Chief Executive and Heads of Service of any powers under this Urgent Matters delegation shall be subject to the following conditions:

- a. that the determination of the question or other matter or implementation of the recommendation is capable of determination under law in this manner;
- b. that the Chief Executive or designated Head of Service before making a decision under paragraph 2.1.3.2 shall consult with the Leader;
- c. that the Chief Executive or designated Head of Service before making a decision under paragraph 2.1.3.2, shall consult with the Head of Legal & Democratic Services and the Chief Financial Officer or their nominated deputies;
- d. that a record of all decisions made or recommendations implemented, together with the consultations referred to in paragraphs 1.1.3.3(b) and (c) shall be recorded and maintained by the Head of Legal & Democratic Services; and
- e. that any decisions made or recommendations implemented under this provision shall be reported to the next scheduled meeting of the Executive, Council, Committee or Sub-Committee, which would otherwise have dealt with the question or matter.

2.1.4 Each Director and Head of Legal & Democratic Services may each exercise the powers of the Chief Executive in the event of his/her incapacity, absence or unavailability.



## 2.2 HEAD OF LEGAL & DEMOCRATIC SERVICES

*The Head of Legal & Democratic Services is the Monitoring Officer for the purposes of Section 5 Local Government and Housing Act 1989, is the Officer appointed to monitor the Council's legal affairs.*

- 2.2.1 To be any Proper Officer, required by any legislation.
- 2.2.2 To undertake, appoint and vary the appointment of any Proper Officer required by any legislation.
- 2.2.3 To undertake and discharge the roles of proper or deputy Proper Officer in respect of the appointment or dismissal of statutory and non-statutory Chief Officers and Deputy Chief Officers.
- 2.2.4 To receive and consider a certificate received under Section 47(2) National Assistance Acts 1948 and 1951 to make an application for an order for removal.
- 2.2.5 To issue a direction to unauthorised campers to leave land and to request an Order from the Magistrates Court if the direction to leave is not complied with, pursuant to Section 77 Criminal Justice and Public Order Act 1994.
- 2.2.6 To approve designated deputies to carry out the functions of a Proper Officer for the purposes of Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.
- 2.2.7 In the absence of any other Officer with delegated powers, Committee or Sub-Committee, to perform the Council's powers and duties in respect of:
  - a. Coroner Services;
  - b. Magistrates' Court Committee;
  - c. Probation Service;
  - d. Hampshire Combined Fire Authority.
- 2.2.8 To grant authorisations for the dissemination of information under Section 142 Local Government Act 1972 and Section 115 Highways Act 1980.
- 2.2.9 To grant permission under the Highways Act 1980 for the provision of services for the benefit of the public, eg recreation and refreshments on the highway.
- 2.2.10 To undertake the Council's functions under the Commons Registrations Act 1965 and any subsequent or ancillary legislation, in so far as the power to register common land, town, or village greens is exercisable solely for the purpose of giving effect to (a) an exchange of lands affected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67), or (b) an

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Order under Section 147 of the Inclosure Act, 1845 or Section 16 / 17 of the Commons Act 2006.

- 2.2.11 To carry out all functions and responsibilities associated with the Local Land Charges Act 1975, any subsequent legislation or regulations and the Council's responsibilities for maintaining and operating the Register of Local Land Charges including, but not limited to, the setting of fees.
- 2.2.12 To carry out the relevant consultation process under Part VIIA Highways Act 1980 and, subject to the outcome of the consultation to grant consent for the placing of temporary objects or structures on the highway.
- 2.2.13 To enter into agreements on appropriate terms and conditions on behalf of the City Council, as the lead organisation and responsible recipient of any European Funding received.
- 2.2.14 Following consultation with the Chief Financial Officer, to grant specific indemnities to supplement the Standard Indemnity (as amended) where considered that the form of the Standard Indemnity (as amended) provides insufficient protection for the needs of the Council, Members and/or officers in question.
- 2.2.15 To implement the Incident List and Exclusion Policy and to issue and vary a procedure under which the Council shall operate said policy.
- 2.2.16 In respect of Southampton Community Regeneration Framework Power to enter into grant agreements for the award of grants derived from Government funded regeneration programmes up to £50,000 in value and to determine when a legal charge is required on property to secure the repayment of any grant awarded.
- 2.2.17 To issue licences under Sections 176 and 177 of the Highways Act 1980 for the construction of bridges over the highway on whatever terms or conditions it is considered appropriate.
- 2.2.18 To make any consequential minor changes arising from changes to the Constitution subject to an adjustment being made to the Council's disposal of executive business, whereby a question put on a notice to a member of the Executive may be followed up with an unlimited number of supplementary questions from the member who put the original questions.
- 2.2.19 To fill vacant Executive appointments following consultation with the Leader.
- 2.2.20 To enter into legal agreements pursuant to Section 38 and 278 Highways Act 1980, where a decision has been taken to grant planning consent or resolved to grant planning consent subject to the completion of the appropriate highway agreements.

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- 2.2.21 To take all action necessary as the Council's data protection officer, pursuant to the Data Protection Act 1998, in relation to the Council's functions and duties under the Freedom of Information Act 2000, the Regulation of Investigatory Powers Act 2000 and all relevant secondary legislation and guidance (including European Directives).
- 2.2.22 To determine all matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements.

### **Independent Education Appeals**

- 2.2.23 To determine the eligibility and suitability of applicants and to appoint a pool from which the members of the Independent Education Appeals Panels are to be drawn.
- 2.2.24 To determine the category of members of the pool (lay or independent members) and to maintain a list of pool members.
- 2.2.25 To appoint three members of the pool to sit as an Independent Education Appeal Panel and to appoint one of their number to act as chair of the panel when constituted.
- 2.2.26 To act as Clerk to the Independent Education Appeal Panels and to appoint officers to act as clerks at hearings of the Panels.

### **Hypnotism Act 1952**

- 2.2.27 To grant, but not refuse, consent for performances of hypnotism.

### **Public Health Acts Amendment Act 1907**

- 2.2.28 To grant, renew and suspend, but not to refuse or revoke, pleasure boat and boatman's licences.

### **Licensing Act 2003**

- 2.2.29 To approve local certification of films that are capable of classification without difficulty and which are not likely to cause public concern, following consultation with the Chair of the Licensing Committee.
- 2.2.30 Subject to any requirement to place any matter before a duly convened Licensing Committee, to undertake the following functions under the Licensing Act 2003:
- a. where no objection or adverse representation is made to an application, to determine the following applications:
    - i. for a personal licence;
    - ii. for a premises licence or a club premises licence;
    - iii. for a provisional statement;

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- iv. to vary a premises certificate or club premises certificate;
  - v. to vary a designated premises supervisor;
  - vi. to transfer a premises licence;
  - vii. for an interim authority;
  - viii. to serve counter notices in respect of temporary event notice applications;
  - ix. for removal of the mandatory designated supervisor condition for community premises.
- b. in all cases, to determine the following matters:
- i. a request to be removed as a designated premises supervisor;
  - ii. to decide where a complaint is irrelevant, frivolous, vexatious, etc;
  - iii. to keep a register under Section 8 of the Act;
  - iv. to enter premises as an authorised officer of the Council pursuant to Sections 96, 108 and 179 of the Act;
  - v. to agree to dispense with a hearing pursuant to Regulation 9 Licensing Act 2003 (Hearings) Regulations 2005;
  - vi. applications for minor variations of premises licences and club premises certifications.

2.2.31 To enter premises for the purposes of consulting and advising on the licensing objectives and compliance with the Licensing Act 2003:

### **Criminal Justice and Police Act 2001**

2.2.32 To serve a closure notice under section 19 of the Criminal Justice and Police Act 2001 where premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises.

### **Local Government (Miscellaneous Provisions) Act 1982**

2.2.33 To inspect licensed sex shops, sex cinemas and sex entertainment venues.

2.2.34 To grant by way of renewal, but not refuse, street trading consents for Above Bar Pedestrian Precinct.

2.2.35 Following consultation with the appropriate Head of Development, Economy & Housing Renewal to grant, but not refuse, street trading consents in respect of Guildhall Square, except for the sale of fruit and vegetables, subject to the terms and conditions of the licence and other legal criteria as appropriate including but not limited to those indicated in Appendix 4 of the City Services Committee on 21<sup>st</sup> December 1992, to restrict the hours of occupation and operation to between

8:00 am and 9:00 pm on any day, not excluding Sunday, save as restricted by law, for up to a maximum of 30 traders at any one time and subject to any supervision of any provision that may then be in force.

**Police, Factories, etc, (Miscellaneous Provisions) Act 1916 and the House to House Collections Act 1939**

2.2.36 To grant, but not refuse, applications for street collection permits and house-to-house collection licences.

**Scrap Metal Dealers Act 2013**

2.2.37 To administer and enforce the function.

2.2.38 To determine applications (including refusal), revoke licences or to impose conditions under section 3(8)

2.2.39 To request further information of applicants (para 4, schedule 1)

2.2.40 To issue or cancel a closure notice for unlicensed sites and where appropriate to apply for closure orders (schedule 2) and take such other action in this respect as may be required.

**Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976**

2.2.41 To determine applications for hackney carriage licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.42 To determine applications for private hire vehicle licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.43 To determine applications for hackney carriage drivers' licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.44 To determine applications for private hire drivers' licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.45 To determine applications for private hire operators' licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.46 To determine applications for hackney carriage fare scales.

**Gambling Act 2005**

2.2.47 Subject to any requirement to place any matter before a duly convened Licensing Committee to undertake the following functions under the Gambling Act 2005:

- i. to determine applications for premises licences where no relevant representations are received.
- ii. to determine applications to vary premises licences in respect of which no representations have been received.
- iii. to determine whether a representation is vexatious, frivolous or would not influence the authority's determination of the application.
- iv. to determination applications for transfer of premises licences where no representations are received.
- v. to revoke premises licences for failure to pay the annual fee.
- vi. to determine that a premises licence has lapsed.
- vii. to reinstate a lapsed premises licence where no representations are received.
- viii. to reject an application for review of a premises licence on various grounds.
- ix. to initiate a review of a premises licence.
- x. to determine that representations about a review of a premises licence is frivolous, vexatious or will certainly not influence a review of a premises licence.
- xi. to determine action following a review of a premises licence where no hearing is held and all parties agree in advance to the relevant action.
- xii. to determine applications for a provisional statement in respect of which no representations are received.
- xiii. to disregard representations made in respect of applications for premises licences after issue of a provisional statement.
- xiv. to issue a counter notice to a temporary use notice where the number of permitted days are exceeded.
- xv. to object to a temporary use notice.
- xvi. to institute criminal proceedings in respect of an offence under the provisions of the Act.
- xvii. to determine applications for family entertainment centres.
- xviii. to notify the lapse of family entertainment centre gaming permit.
- xix. to register societies for small society lotteries.
- xx. to refusal applications for registration for small society lotteries.
- xxi. to revoke registrations of societies for small society lotteries.

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- xxii. to cancel registrations of societies for small society lotteries in the event of non-payment of the annual fee.
- xxiii. to determine applications for variation of club gaming permits and club registration permits and cancellation of permits where no representations are received.
- xxiv. to cancel club gaming permits and club registration permits for failure to pay the annual fee.
- xxv. to determination applications for grant, variation or transfer of licensed premises gaming machine permits.
- xxvi. to cancel licensed premises gaming machine permits and vary the number or category of machines where no representations are received.
- xxvii. to cancel licensed premises gaming machine permits for failure to pay the annual fee.
- xxviii. to determine applications for prize gaming permits and applications for renewal of prize gaming permits.
- xxix. to determine that a prize gaming permit has lapsed.

### **Police and Social Responsibility Act 2011**

#### **Late Night Levy**

- 2.2.48 To determine whether the holders of any relevant late night authorisations fall within any permitted exemption or reduction categories and in particular whether the holders of any relevant late night authorisations who are members of any approved business-led best practice scheme fall within the permitted reduction category;
- 2.2.49 To determine the aggregate amount of expenses of the Council that are permitted deductions under section 130(1)(b) of the 2011 Act;
- 2.2.50 To publish annual notices under section 130(5) of the 2011 Act relating to anticipated expenses and the net amount of the levy payments;
- 2.2.51 To make adjustments to payments in accordance with paragraph 7 of the Late Night Levy (Application and Administration) Regulations 2012;
- 2.2.52 To determine from time to time when and for what purposes the Council will apply the non-specified proportion of the net amount of the levy payments.

#### **Other Matters**

- 2.2.53 Power to issue a certificate of existing or proposed lawful use or development (Sections 191(4) and 192(2) of the Town and Country Planning Act, 1990).

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- 2.2.54 Power to issue Breach of Condition Notices subject to decisions being reported to Members with other delegated decisions via an email system or on the web;
- 2.2.55 Power to issue Enforcement Notices under Section 172 of the Town and Country Planning Act 1990 or Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to the preparation of an enforcement report and Planning and Rights of Way Panel and Ward members not requiring a report to the Planning and Rights of Way Panel.
- 2.2.56 After consultation with the Planning & Development Manager, power to institute criminal or civil proceedings for non-compliance with enforcement notices, subject to any prosecution or civil action being reported to Planning and Rights of Way Panel and Ward Members by email or website.
- 2.2.57 To enter into any necessary planning obligations on behalf of the Council prior to the grant of planning permission.
- 2.2.58 Power to agree and recommend the terms of variation for a planning obligation where the overall effect of the planning obligation is still achieved.
- 2.2.59 Power to enter into any necessary Deed of Variation of a planning obligation where the overall effect of the planning obligation is still achieved.
- 2.2.60 To enter into joint agreements for the provision of the services by Southampton Community Health Services Trust and other health bodies or organisations.
- 2.2.61 To obtain information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.2.62 To issue any remedial notices or withdraw, relax or waive (after consultation with the Director of Place (Environment & Economy)) pursuant to section 68(4) and Section 69 and 70 of the Anti-Social Behaviour Act 2003 (High Hedges).
- 2.2.63 To take any necessary enforcement action in relation to remedial notices and to take appropriate action to recover costs reasonably incurred.
- 2.2.64 To make any order, notice or decision, grant any license, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.
- 2.2.65 To make arrangements for the appointment and operation of an Independent Remuneration Panel to recommend the level of allowances paid to Members.
- 2.2.66 To determine the eligibility of Members and others entitled to such allowances.
- 2.2.67 To authorise payment of Members' allowances.



## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.2.68 To revise the Members' Allowance Scheme in line with changes to the National Minimum Wage and any other change to the rate identified in the Scheme.
- 2.2.69 To determine and approve allowances payable to the Independent Remuneration Panel.
- 2.2.70 To determine the political balance requirement in respect of the membership of any bodies within the scope of the provisions of the Local Government and Housing Act 1989.
- 2.2.71 To authorise the temporary replacement of Committee and Sub-Committee members in accordance with the published procedure under Council Rules of Procedure 4.3.
- 2.2.72 To provide or arrange for the provision of legal advice to the Council, including obtaining Counsel's opinion and instructing external solicitors as appropriate either on a case by case, or in any other appropriate manner or form.
- 2.2.73 To prepare, approve, conclude, sign or seal all legal documentation for the Council, including, but not limited to, conveyances, mortgages, contracts, notices, orders, charges and agreements.
- 2.2.74 To institute or authorise legal proceedings and to prosecute and defend any proceedings, including counterclaiming for damages or other relief brought by or against the Council, and including the prosecution of offenders for contravention of the bye-laws as may be in force from time to time or take any other action necessary to protect the legal position of the City Council.

Additionally, to investigate, institute and authorise legal proceedings and prosecutions in respect of any statutory conspiracy offences and common law offences to include conspiracy and conspiracy to defraud; and authorisations to officers contained within this scheme shall include powers to investigate any statutory conspiracy offences and common law offences such as conspiracy and conspiracy to defraud.

In respect of all statutory and common law offences referred to within this scheme, where deemed appropriate and reasonable to institute, or authorise legal proceedings and prosecutions where the cause of action arises or the place of offence is outside of Southampton City Council boundaries where such action deliver a benefit to the residents of the City of Southampton”

- 2.2.75 To appear and to authorise officers including those not within the managerial control of the Head of Legal & Democratic Services to appear on behalf of the City Council in proceedings in the County Court, pursuant to Section 60 County Courts Act 1984, as

## PART 2 – CHIEF EXECUTIVE'S OFFICE

amended by s125 (7) of County and Legal Services Act 1990, and in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.

- 2.2.76 To sign, serve and receive notices and documents on behalf of the Council in relation to any formal or legal procedures.
- 2.2.77 To sign or seal any contract, deed or other document (in accordance with Contract Procedure Rules, etc) arising from an express decision of the Executive, a committee or Sub -Committee, or from a decision made by an officer acting under delegated authority, to take (or refrain from taking) action that falls within the lawful powers of a local authority where the entering into of the contract, deed or other document is either expressly approved or is incidental to the express decision and necessary to give effect to the said express or incidental decision.
- 2.2.78 To recover all debts with the exception of outstanding general rates, community charges, national non domestic rates, Council tax, mortgages and rent arrears.
- 2.2.79 To settle any claim whether proceedings have been initiated or not, up to £125,000 following consultation with the Chief Financial Officer.
- 2.2.80 To determine the procurement route for any procurement governed by the EU procurement regime or any other legislation and make all subsequent decisions in relation to such procurement whether governed by the EU Public Procurement regime or not.
- 2.2.81 Within the scope of the postholder's employment, to manage investigations and grant authorisations under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.
- 2.2.82 Within the scope of the postholder's employment, to authorise other Council officers below the level of first level officer for the management of investigations and the grant of authorisations under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.
- 2.2.83 To amend the Constitution pursuant to any lawful decision of the Council or the Executive where that decision warrants a change to the Constitution.
- 2.2.84 To amend the Constitution where any change in the law requires a consequential change in the body of the Constitution provided such change is not so substantial as to warrant reporting to the Governance Committee and/or Council for approval in accordance with the Local Government Act 2000 and Localism Act 2011.
- 2.2.85 To sign or endorse any documents on behalf of the authority where so requested by a citizen, eg authentication details, etc.

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.2.86 To issue and certify all forms of authorisation, including identity cards, for all Council officers and employees.
- 2.2.87 To certify as a true and correct record any documents in accordance with Section 229 Local Government Act 1972.
- 2.2.88 To alter the Scheme of Officer Delegation to reflect any changes in the categorisation of delegated powers as between Executive and non-Executive as is considered necessary but always within the terms of the Regulations relating to local government functions.
- 2.2.89 To take any action necessary or appropriate in relation to Corporate Governance, Standards, the Ethical Framework or any other related issue to Members, ethics, qualification and disqualification, and in this context, subject to any decisions of the Governance Committee, to take any consequential action arising from a breach of the Code of Conduct for Members / Employees, and any other related provisions or issues.
- 2.2.90 To determine all matters delegated to the Head of Legal & Democratic Services in his/her capacity as Proper Officer under the Council's Constitution, which may be amended from time to time, including but not limited to delegations under the following rules:
- Council Procedure Rules
  - Executive Procedure Rules
  - Overview and Scrutiny Procedure Rules
  - Budget and Policy Framework Rules
  - Access to Information Rules
- 2.2.91 To determine Council, Committee and Executive decision-making administrative procedures and the timetable for meetings in so far as they relate to the despatch of agendas and compliance with the Local Government Acts 1972 and 2000 (and regulations made thereunder) and compliance with the Council's Rules of Procedure.
- 2.2.92 To undertake all functions and responsibilities not the responsibility of other officers associated with the Access to Information provisions contained within the Local Government Acts 1972 and 2000 (and regulations made thereunder).
- 2.2.93 To certify as a true and correct record reports, records of decision and minutes of any decision-making body or the Executive, the Council, Committees, Sub-Committees or officer acting under delegated powers, in accordance with Section 229 of the Local Government Act 1972.

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.2.94 To make arrangements for the publication of the Forward Plan in accordance with the Council's Constitution, the Local Government Act 2000 and secondary legislation.
- 2.2.95 Following consultation with Group Secretaries, to fill vacancies on all appointments to outside bodies and organisations that arise during the municipal year, provided that they comply with the requirements of the political balance required by the Local Government and Housing Act 1989 subject to changes being reported to the next Council meeting.
- 2.2.96 To appoint members nominated by external organisations to any bodies set up under statutory requirements, partnership or other arrangements, excluding members of the Council.
- 2.2.97 Subject to approval of the appropriate Head of Service to book places and make arrangements for Members on courses, seminars or other training and conferences.
- 2.2.98 To make arrangements for the receipt and opening of all tenders invited in accordance with the provisions of the Council's Contracts Procedure Rules.
- 2.2.99 To approve appointments to the Southern Group Valuation Tribunals.
- 2.2.100 To sign on behalf of the Council, Members' Declaration of Interest forms and to maintain any statutory or voluntary registers of Members' interests.
- 2.2.101 To vary this Scheme of Officer Delegation to reflect changes in job titles, reorganisations, vacancies in posts and generally to maintain the Scheme of Officer Delegations.
- 2.2.102 To enter into interim Supporting People contracts.
- 2.2.103 To take any action necessary or appropriate in relation to the operation of the Mayor's Office, in relation to the activities or functions organised on behalf of or involving the Mayor and/or Sheriff, including organising and running any civic events or other associated civic or ceremonial matters, events or occasions regardless of portfolio overlaps.

## **2.3 HEAD OF STRATEGIC HR**

### **General**

- 2.3.1 To review the defined levels of post at which action can be taken under HR and Organisational Development procedures, including termination of employment, consistent with changes in the Council's organisational structures.
- 2.3.2 Following consultation with the relevant Cabinet Member, to negotiate and adopt revised personnel procedures and associated conditions of service where there is no change in policy or strategy.
- 2.3.3 In respect of the resolution dated 16<sup>th</sup> April 2002 of Employment Panel regarding Appointment and Dismissal of Heads of Service to implement and adopt arrangements in the event of exceptional circumstances and following consultation with the relevant Cabinet Member.
- 2.3.4 To authorise payments made on behalf of the Council to external organisations as a result of payroll deductions including but not limited to payments to HMRC (PAYE and National Insurance Contributions), pension (LGPS and Teachers' Pensions)

### **Structures and Establishments**

- 2.3.5 To approve changes in the number (whole time equivalents) or grades on the organisational structure of directorates, where such changes are within overall employee costs, financed from external sources or from ongoing service budgets, and where accommodation is available, following consultation with the relevant Cabinet Member.
- 2.3.6 To approve changes in the designation of posts.

### **Pay and Benefits**

- 2.3.7 To approve any variations or changes to the approved pay and allowances framework.
- 2.3.8 To apply, vary or end the payment of a market supplement provided that funding is available within divisional budgets, following consultation with the relevant Cabinet Member.
- 2.3.9 To approve the payment of honoraria where it does not relate to covering a higher graded post.
- 2.3.10 In the case of covering for a post, approve the payment of an honorarium.
- 2.3.11 To approve merit increments in excess of two in any year.

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.3.12 To determine applications for the re-assessment of the grade of posts, whether initiated by management or an employee.
- 2.3.13 To waive the conditions under which payments are made under the Relocation Expenses Scheme.
- 2.3.14 To review and vary the value of long service awards, following consultation with the relevant Cabinet Member.
- 2.3.15 To review and update the level of allowances paid to employees in accordance with the conditions of service, eg the allowance paid to appointed first aiders, following consultation with the relevant Cabinet Member.
- 2.3.16 To adjust the Taxi Allowance in line with taxi fare increases.
- 2.3.17 To make payments to staff in accordance with the adopted Policy Statement on Discretionary Severance and Payments arrangements where an unreduced pension is payable and where there is no discretionary element, after consultation with the Deputy Chief Financial Officer.
- 2.3.18 Provided that the cost can be met from within existing budgetary provision and the maximum of the grade is not exceeded, to authorise up to two accelerated increments following examination success or for other reasons.
- 2.3.19 To authorise the allocation and payment of car allowances.
- 2.3.20 To authorise advance of pay on appointment to monthly pay.

### **Sickness**

- 2.3.21 To approve payments of up to twice the maximum salary of spinal column point 21 in respect of the Personal Injury Scheme, following consultation with the relevant Cabinet Member.
- 2.3.22 To grant extensions of sick pay for up to two months at either full or half pay dependent on the circumstances.

### **Trade Union Facilities**

- 2.3.23 To vary the amount of trade union facility time approved corporately, subject to the availability of finance, following consultation with the relevant Cabinet Member.

**NOTE:** IN RELATION TO DELEGATED POWERS 2.3.1, 2.3.3, 2.3.6, 2.3.13, 2.3.15, 2.3.16, 2.3.21 AND 2.3.23 WHERE THE HEAD OF STRATEGIC HR EXERCISES ANY OF THOSE DELEGATED POWERS, S/HE SHALL, AS REASONABLY PRACTICABLE AFTER EXERCISING THOSE POWERS, ADVISE THE CHAIR OF THE EMPLOYMENT AND APPEALS PANEL AS TO THE EXERCISE OF THAT DELEGATED POWER.

## 2.4 CHIEF FINANCIAL OFFICER

*The Chief Financial Officer is responsible for the purposes of Section 151 Local Government Act 1972 for the Council's Financial Affairs.*

- 2.4.1 To vary the limit on the value of houses on which advances under the Housing (Financial Provisions) Act 1958, may be made to employees subject to existing income requirements.
- 2.4.2 To provide loans under the Assisted Car Purchase Scheme and review the minimum loan in accordance with the increase in R.P.I. for the Council's benchmark cars.
- 2.4.3 To review the Council's contribution towards the Employee Car Scheme by the variation in annual rentals and insurance premiums for the Council's benchmark cars.
- 2.4.4 To annually review and set the interest rate for the car loan scheme.
- 2.4.5 To review the mileage allowance for the Employee Car Scheme following any significant variations in petrol prices and the rental / mileage differentials, in addition to the annual review each April.
- 2.4.6 To finalise details of the operation of the Employee Car Scheme within the Council's policy.
- 2.4.7 To determine the instalment date in respect of the Statutory Instalment Scheme for the Council Tax.
- 2.4.8 To make arrangements with the Council's bankers regarding the operation of the Council's bank accounts and the terms on which they are conducted.
- 2.4.9 To exercise all the powers and duties exercisable by the City Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.) concerning:
  - Council Tax
  - Community Charges
  - Housing Benefit
  - General Rates
  - National Non-Domestic Rating
  - Community Charge Benefit
  - Council Tax Benefitreserving only to the Council those functions specifically precluded from delegation by legislation.
- 2.4.10 To approve the Council Tax Base for the City.
- 2.4.11 To approve the National Domestic Rates Return (NNDR1) for submission to the Department for Communities and Local Government..

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.4.12 To take all and any decisions necessary or required to be taken by an officer of the Council in relation to the SSP contract with Capita Business Services Limited except where the decision to be made is significant in which case the delegation may only be exercised following consultation with the relevant Cabinet Member.
- 2.4.13 To take all and any decisions necessary or required to be taken by an officer of the Council in relation to the Council's Treasury Management activities and to authorise all officers within the Finance Division to undertake operational Treasury Management activity consistent with those decisions and the Annual Treasury Management Strategy.
- 2.4.14 To set the mortgage interest rate for Council mortgages in accordance with the Housing Act 1985.
- 2.4.15 To finalise details of the operation of the Mortgage Equity Scheme within the Council policy.
- 2.4.16 To introduce and operate a Discretionary Housing Payments Scheme in accordance with the Discretionary Financial Assistance Regulations 2001.
- 2.4.17 To write off any arrears accrued by tenants where he or she is satisfied that:
- a. arrears arose because the tenant was given incorrect or insufficient Housing Benefit advice; and
  - b. the tenant was not warned that this advice was a provisional estimate and any difference would have to be made good.
- 2.4.18 Within the scope of the postholder's employment, to manage investigations and grant authorisations under Section 28 and 29 of the Regulation of Investigatory Powers Act 2000.
- 2.4.19 Within the scope of the postholder's employment, to authorise other Council officers below the level of first level officer for the management of investigations and the grant of authorisations under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.
- 2.4.20 After consultation with the Head of Housing Services and the Head of Legal & Democratic Services, to enter into business agreements for the provision of financial assistance provided by external partners in relation to the Private Sector Housing Strategy.
- 2.4.21 The Chief Financial Officer shall have authority to take all action as is necessary or expedient to fulfil the statutory obligations under Section 151 Local Government Act 1972.



## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.4.22 To provide or arrange for the provision of financial advice to the Council, including from external sources.
- 2.4.23 To make arrangements with the Council's Bankers regarding the operation of the Council's bank accounts and the terms on which they are conducted.
- 2.4.24 To negotiate all loans of money to the City Council (including bank overdrafts) within the City Council's overall borrowing powers.
- 2.4.25 To act as the Council's Registrar of stocks, bonds, mortgages and other securities, and maintain adequate records of all borrowings of money by the City Council.
- 2.4.26 To invest or utilise such surplus monies of the City Council and to realise such investments as considered proper and in the City Council's interest.
- 2.4.27 To be responsible to the Council for the purchase, sale, realisation or exchange of investments.
- 2.4.28 To enter into any operating leasing agreements that might be required.
- 2.4.29 To write off any debts of the Council up to £200,000 and to establish, write-off limits for Council Officers and guidance for debt write-off in the case of hardship or safeguarding individuals.
- 2.4.30 To approve any Direct Debit arrangements for the Council.
- 2.4.31 To authorise requests for Assisted Car Purchase Scheme loans after consultation with the Head of Strategic HR.

### **Sixth Form Colleges**

- 2.4.32 After consultation with the Director of People, to make an advance of funds to a college.
- 2.4.33 To issue a Financial Notice to Improve in accordance with the Apprenticeships, Skills, Children & Learning Act 2009.
- 2.4.34 After consultation with the Director of People, to issue a capital related borrowing consent in relation to post 16 learning providers.
- 2.4.35 After consultation with the Director of People, to issue a solvency related borrowing consent in relation to post 16 learning providers.

### **Other**

- 2.4.36 After consultation with the Director of People, to use intervention powers under the Apprenticeships, Skills, Children and Learning Act 2009.
- 2.4.37 To act as the Council's Money Laundering Officer.

## PART 2 – CHIEF EXECUTIVE'S OFFICE

2.4.38 To review annually or at such other periods as is considered necessary all risks and insurances following consultation with appropriate Heads of Service, and make arrangements and agree terms with insurers for those risks considered to be economic to transfer to the Council's insurers.

2.4.39 To indemnify / insure directly or indirectly persons, other than councillors / officers, involved in Council activities.

### PROCUREMENT

2.4.40 To amend the Council's Contract Compliance questionnaire as required.

2.4.41 To authorise named individuals to be the Council's nominated professional officers for inclusion in appropriate contracts.

2.4.42 To approve all exceptions and relaxations to Contract Procedure Rules.

2.4.43 To approve acceptance of tenders other than the lowest for all contracts.

2.4.44 To authorise the Heads of Service to participate in contracts arranged by the Central Business Consortium member authorities.

2.4.45 To approve procedures specifying the requirements of Contract Procedure Rules and local procedures implementing those requirements.

- 2.4.46 a. To approve the appropriate procurement route;
- b. To approve requests for contracts;
  - c. To approve OJEU advertisements;
  - d. To approve a regime for setting up, amending, reviewing and managing tender lists
  - e. Approve payments in advance, only with prior written approval of the Chief Financial Officer and Head of Legal & Democratic Services.

2.4.47 To approve framework agreements (including those available under Catalist from OGC buying.solutions) for use within the Council following an assessment of the terms of the framework ensuring that it offers best value and legal compliance.

2.4.48 To manage all EU procurement procedures and authorise such other person or department as he or she may direct, to do so.

2.4.49 To manage all high-value transactions, and authorise such other person or department as he or she may direct to do so, working with the relevant client departments / directorates.

2.4.50 To authorise any variations to an existing contract, and if relevant a consequent change in price, determined in accordance with the contract terms where the annual

## PART 2 – CHIEF EXECUTIVE'S OFFICE

value of the variation is greater than £25,000 or 15% of the original annual contract value (whichever is the lesser).

- 2.4.51 To authorise all extensions and variations to a contract awarded under the EU Procurement Directives.
- 2.4.52 To certify that any interest which may affect the award of a contract under Contract Procedure Rules are acceptable or take any necessary action in respect of potential conflicts of interest and instruct that the officer should not participate in the award of the contract by the Council.
- 2.4.53 In accordance with paragraphs 2.4.54 and 2.4.55 below, to take all and any decisions necessary or required to be taken by the Council under the Council's strategic contracts, including:-
- a. the Strategic Services Programme (SSP) with Capita Business Services Limited
  - b. the Highways Services Partnership (HSP) Contract with Balfour Beatty Workplace Limited
  - c. the Street Lighting PFI with Tay Valley Lighting (Southampton) Limited
  - d. the ROMTV (Citywatch) Contract with Balfour Beatty Living Places Limited
  - e. the leisure management contract with Active Nation
  - f. the Guildhall management contract with Live Nation
  - g. the golf course management contract with Mytime Active
  - h. the contract for management of Sports Centre St Mary's with Sport Solent
  - i. any other contract designated by the Chief Executive as a strategic contract for the purposes of this delegation.
- 2.4.54 To approve dispensation for those not able to adopt Customer Care Corporate Standards, policies or strategy.
- 2.4.55 To enter into professional Customer Service memberships in the interests of the Authority.

**2.5 DEPUTY CHIEF FINANCIAL OFFICER**

No delegations currently

**2.6 HEAD OF IT**

- 2.6.1 To initiate tendering processes for IS/IT products and services, subject to consultation with the Head of Legal & Democratic Services and Chief Financial Officer.
- 2.6.2 To vary, renegotiate and amend leases and other IT contract details in agreement with the Head of Legal & Democratic Services, where these improve service or reduce costs.
- 2.6.3 To approve changes and enhancements to the City Council's website and its technology and standards and similar initiatives.
- 2.6.4 To approve changes and exceptions to IS/IT Corporate Standards and Policy.
- 2.6.5 To enter into professional IT memberships in the interests of the Authority.
- 2.6.6 To initiate projects to explore new technology opportunities for the Authority, subject to appropriate budgetary provision.
- 2.6.7 Enter into any arrangements necessary in the event of a disaster recovery situation affecting IT, and to approve exceptions to Contract Procedure Rules for emergency disaster recovery work for IT services and provision in the best interests of the Authority, following consultation with the Head of Legal & Democratic Services and the appropriate Director.
- 2.6.8 To produce and vary IT procedures, including IT ordering procedures provided these do not conflict with Financial Procedure Rules or Contract Procedure Rules subject (in respect of ordering / contractual issues) to the agreement of the Chief Financial Officer and the Head of Legal & Democratic Services.
- 2.6.9 To review annually or at any such other periods as may be considered necessary, all IT plans and risks associated with them following consultation with Heads of Service.
- 2.6.10 To prepare or approve the form and content of all IT plans, proposals, policies, standards, strategy and acquisitions.
- 2.6.11 To approve the acceptance of IT contracts other than the lowest for contracts up to £125,000 in value subject to the approval of the Chief Financial Officer.
- 2.6.12 To vary prices for divisional services following consultation with the appropriate Head of Service.
- 2.6.13 To adopt methodologies, procedures and practices to optimise the management implementation and maintenance of information systems including project and financial management.

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2.6.14 To approve dispensation for those not able to adopt IS/IT Corporate Standards, policies or strategy.

**2.7 ASSISTANT CHIEF EXECUTIVE**

- 2.7.1 To be responsible for the completion and updating of the Policy Framework Plans and implementing the council's Performance Management Framework.
- 2.7.2 To authorise the attendance by any Member at a conference, meeting or other event, following consultation with the Head of Legal & Democratic Services, provided the costs are to be met from the relevant Portfolio budget.
- 2.7.3 Following consultation with the Chief Financial Officer and the appropriate officers dealing with European matters, to complete and submit expressions of interest for funding or initiatives relating to equalities, cohesion, community safety and community involvement to any UK or EU funding agencies.
- 2.7.4 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking external funding or joining funding partnerships.
- 2.7.5 To commission market research.
- 2.7.6 The provision and sharing of data and research initiatives.
- 2.7.7 To exercise any specific or general powers in this Division's section of this Scheme which are delegated to other officers.
- 2.7.8 To revise, if required, ~~re~~<sup>re</sup> ~~ve~~<sup>ve</sup> ~~l~~<sup>l</sup> ~~au~~<sup>au</sup> ~~i~~<sup>i</sup> ~~n~~<sup>n</sup> ~~ue~~<sup>ue</sup> subsidies to Category B Council owned community centres and the funding to support the development of community involvement activities linked to the operation of such centres.
- 2.7.9 To act in all matters associated with the delivery of neighbourhood renewal, inclusion, community safety and community involvement and other programmes, partnerships or arrangements managed by external partnership bodies where the Council is the accountable body or is responsible for or is a partner in the programme, partnership or arrangement, and in particular to do so following consultation with the board or other body responsible for the management of the programme, partnership or arrangement, and to seek and replace members of such bodies.
- (Action should only follow appropriate consultation at the outset. Where land use and planning processes are involved this must be with the Chief Financial Officer, Head of Legal & Democratic Services and the Head of Culture and Planning. Where there is existing or intended Council ownership this must include the Head of Property).

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.7.10 The power to enter into grant agreements for the award of grants derived from Government funded regeneration programmes and to determine when a legal charge is required on property to secure the repayment of any grant award.
- 2.7.11 To formally sign off regeneration Delivery Plans and Funding Agreements with the appropriate Funding Agencies for all externally funded projects and programmes relating to equalities, cohesion, community safety and community involvement following consultation with the Chief Financial Officer.
- 2.7.12 To make modifications / amendments to the approved standard conditions of grant aid.
- 2.7.13 Following consultation with the relevant Cabinet Member and the Chief Financial Officer, to agree for the City Council to act as the accountable body on behalf of formally constituted “friends” groups, resident, tenant or community groups, or sports clubs applying for external grant funding of less than £125,000 to improve the city's open spaces and associated assets and infrastructure. This responsibility may include procuring supplies, goods or services on behalf of the grant recipient through identifying the most economically advantageous quote or tender, certifying receipt of goods and services, agreeing practical completion of site works, authorising payment of invoices, controlling and monitoring project expenditure, and keeping accurate and auditable financial records for the purpose of reclaiming project expenditure from the external grant funding body.
- 2.7.14 To deputise for the Chief Executive in respect of any matters relating to the Change and Communities Portfolios.
- 2.7.15 To change the decision-making<sup>[AU2]</sup> body and managerial responsibilities for any property in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Chief Financial Officer and Head of Property, Procurement and Health & Safety.
- 2.7.16 To approve and allocate grants to voluntary organisations, following consultation with the relevant Cabinet Member and Chief Financial Officer and make decisions to vary the budget allocation within Financial Procedure Rules.
- 2.7.17 To make amendments to the Council's equality policies in order to address evolving legal and performance requirements.
- 2.7.18 To grant permission for events on public lands (including the Guildhall Square<sup>[BL3]</sup> open space and Cultural Quarter) and, where applicable, to make appropriate charges.



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**2.8 HEAD OF SKILLS, REGENERATION & PARTNERSHIPS**

- 2.8.1 To liaise with economic partnerships and other economic bodies to represent the Council's interests on economic issues.
- 2.8.2 To liaise with skills partnerships and other skills economic bodies to represent the Council's interests on skills issues.
- 2.8.3 Approve Section 106 Employment and Skills Plans.
- 2.8.4 To approve the letting of contracts for the provision of learning, skills and employment related services.
- 2.8.5 To represent the interests of Southampton City Council through attendance at the Sub Regional Group on post 16 commissioning and to take all decisions required pursuant to membership on the group in relation to the exercise of statutory duties for the commissioning of learning and skills for children and young people.
- 2.8.6 To exercise all powers and duties granted or imposed under the Apprenticeship, Skills, Children and Learning Act 2009 and to do anything necessary to commission services as provided for in accordance with the Council's 16-19 obligations.
- 2.8.7 To approve grants to voluntary organisations provide that such approval be limited to £25,0000 per item and overall to no more than 20% of the total amount available for grants to voluntary organisations after consultation with the Cabinet Member.
- 2.8.8 Following consultation with the relevant Cabinet Member and taking into account recommendations made by the Grants Advisory Panel, to determine and allocate Community Chest Grant applications.
- 2.8.9 To approve the hosting of national or international events.

**Sixth Form Colleges**

- 2.8.10 After consultation with the Chief Financial Officer or the Head of Legal & Democratic Services, to approve, cancel or amend funding agreements for learning providers in relation to post 16 learning.

**College Transport & Travelling Expenses**

- 2.8.11 To pay travelling allowances to eligible students at Further Education establishments on the basis of public transport season ticket costs.
- 2.8.12 To pay travelling allowances to students qualifying for transport who provide their own vehicles to travel to schools/colleges according to a scale to be determined and varied as required following consultation with the Chief Financial Officer .

## PART 2 – CHIEF EXECUTIVE'S OFFICE

- 2.8.13 To implement in respect of further education students, where appropriate, any changes in transport regulations made which affect pupils aged 16-19 attending secondary schools and colleges.
- 2.8.14 To work with Post-16 learning providers to ensure that transport is not a barrier to participation in learning, and to implement activities and provide financial support where appropriate.

**2.9 COMMUNICATIONS MANAGER**

- 2.9.1 To issue releases and comments to the media and public as and when necessary in the context of the relevant legal constraints and Council policy.
- 2.9.2 To edit and publish internal and external communications.
- 2.9.3 In cases of urgency, and/or when an appropriate Member or officer is not available, to act as a spokesperson for the Council.
- 2.9.4 To publish and edit the Council's website (Internet) and any subsequent related media.
- 2.9.5 To make any decisions about the sale of advertising or sponsorship in Council (or Council related) publications or on council property subject to legal, etc constraints and Council policy.
- 2.9.6 To undertake negotiations on behalf of the Council in respect of proposed special events in the City.
- 2.9.7 To prepare and implement communication plans where required by the Council.
- 2.9.8 To ensure that the Council complies with the recommended Code on Local Authority Publicity.

**2.10 TRANSFORMATION DIRECTOR**

No delegations at present

## PART 3 – PLACE DIRECTORATE

### **3.1 DIRECTOR, PLACE**

- 3.1.1 To respond to consultations and requests for submissions from central Government, local authorities and other organisations concerning strategic economic issues and research and information developments and initiatives.
- 3.1.2 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking external funding or joining funding partnerships.
- 3.1.3 Following consultation with the Head of Legal & Democratic Services and the Chief Financial Officer, to submit bids for or tenders involving funding or assistance from central Government, the European Commission or from any other source (direct or indirect to the Council itself) , and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB, this delegation applies not only to regeneration, European and Lottery bids, but also to any new schemes as yet not in place, and is thus framed broadly and should apply in the same way).
- 3.1.4 To determine the City Council's membership of "Forum of the Future" annually.
- 3.1.5 To change the decision-making body and managerial responsibilities for any property within the Economic Development Portfolio in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Chief Financial Officer and Head of Property.
- 3.1.6 To authorise the attendance by any Member at a conference, meeting or other event, following consultation with the Head of Legal & Democratic Services, provided the costs are to be met from the relevant Portfolio budget.
- 3.1.7 To commission market research.
- 3.1.8 The provision and sharing of data and research initiatives.
- 3.1.9 To:
  - a. enter into any partnership and governance arrangements with external organisations which will benefit the functions of the Environment and Transport Portfolio;
  - b. contribute to the work of the Partnership for Urban South Hampshire (PUSH) in the preparation of strategic plans;

## PART 3 – PLACE DIRECTORATE

- c. set and vary fees and charges associated with the functions of the Environment and Transport Portfolio;
- d. enter into contracts for the delivery of services associated with the functions of the Environment and Transport Portfolio; and
- e. agree the settlement of both capital and revenue elements of the concessionary fares schemes in accordance with DfT guidance and the council's own Appeals procedures.

following consultation with the Head of Legal & Democratic Services, Head of Contract Management and the relevant Cabinet Member .

- 3.1.10 To make any order or decision, grant any license or take any ancillary action (including fees and setting charges), relating to any aspect of work undertaken by or on behalf of the Environment and Transport Portfolio and any other relevant environmental legislation, subject to the right of appeal by any person permitted under the relevant legislation to object to the making of any such order or decision:

Clean Neighbourhood and Environment Act 2005  
Criminal Justice and Public Order Act 1994  
Countryside and Rights of Way Act 2000  
Highways Act 1980  
Local Government (Miscellaneous Provisions) Act 1976  
New Roads and Street Works Act 1991  
Public Health Act 1925  
Public Health Act 1875  
Refuse Disposal (Amenity) Act 1978  
Road Humps Regulations 1990  
Road Traffic Act 1988 (re cycle races)  
Road Traffic Act 1991  
Road Traffic Regulation Act 1984 (including orders made under Pedestrian Crossings Regulations and Traffic Signs Regulations and General Directions.  
Transport Acts 1985 and 2000  
Road Traffic Regulation (Special Events) Act 1994  
Road Traffic (Temporary Restrictions) Act 1991  
Town and Country Planning Acts  
Town Police Clauses Act 1847  
Traffic Calming Act 1992  
Traffic Management Act 2004

- 3.1.11 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking external funding or joining funding partnerships.
- 3.1.12 To purchase services or sell spare capacity where there is a financial, service or other benefit to the authority.

## PART 3 – PLACE DIRECTORATE

- 3.1.13 To undertake all functions in relation to planning, transport planning, flood risk management, energy management and sustainability exercisable by the Council, save where expressly referred by law or by other provisions contained within this Constitution to another decision-making.
- 3.1.14 To submit bids for or tenders or to receive external competitively secured funding (in compliance with the Financial Procedure Rules) that contribute to the delivery of corporate priorities and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action to comply with Financial Procedure Rules (including the purchase of services, supplies, and works) in the consequential administration of any such bids or tenders.
- 3.1.15 To take any decisions or actions necessary in relation to community safety and anti-social behaviour, including the submission of funding bids, approving projects related to community safety and anti-social behaviour, authorising enforcement action, approving specific projects to meet targets in corporate plans and any projects relating to community cohesion, tackling social exclusion and discrimination.

### **Regeneration**

- 3.1.16 In respect of regeneration land, to approve variation to the terms of leases, licences, easements or wayleaves, covenants or any other transaction, after consultation with the Chief Financial Officer.
- 3.1.17 In respect of regeneration land, to approve the temporary use of property, pending long-term use.
- 3.1.18 In respect of regeneration land, to perform all functions of the Council in respect of its responsibilities and powers under the Party Walls etc Act 1996, including the service and response to Statutory Notices, appointments of Party Wall Surveyors and compliance with all steps required by any Party Walls Award in respect of major projects.
- 3.1.19 In respect of regeneration land, to acquire dwellings repurchased under Part XVI Housing Act 1985, following consultation with the Chief Financial Officer, subject to finance being available.
- 3.1.20 In respect of regeneration land, to discharge the Council's functions as a local housing authority in respect of the day to day routine management, maintenance, improvement and repair of properties or land held under the powers of the Housing Act 1985 or any re-enactment thereof including those properties sold under the Right to Buy Scheme and any other properties managed but not funded from the Housing



## PART 3 – PLACE DIRECTORATE

Revenue Account in accordance with agreed policies and the Council's relevant Procedure Rules.

### **Elections**

3.1.21 To undertake all functions and responsibilities for local, national, European and any other elections, in accordance with UK and European legislation and regulations, save where otherwise provided including, but not limited to, the registration functions and duties (including varying the location of polling places where required) and the determination of fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party.

### **Other**

3.1.22 To commission, monitor and approve all reports for submission to any decision-making body of the Executive, the Council, Committees, Panels and Sub-Committees and to ensure their compliance with all the Procedures and other rules contained within the Constitution and with Corporate Standards and legal and financial requirements, following consultation with Heads of Service, and the Chief Financial Officer.

- a. defining the overall standards to be adhered to for that particular service area; and
- b. commissioning advice on changes to policy.

3.1.23 To make modifications / amendments to the approved standard conditions of grant aid.

3.1.24 To change the decision-making body and managerial responsibilities for any property in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Chief Financial Officer and Head of Property, Procurement & Health & Safety.

## 3.2 HEAD OF CULTURE & PLANNING

### LEISURE & CULTURE

- 3.2.1 To approve the provision of new leisure and culture facilities identified and provided for in current plans subject to:
- the necessary finance being available; and
  - the proposals do not require the appropriation or disposal of an interest in an Open Space within the meaning of Section 229 or 232 of the Town and Country Planning Act 1990.
- 3.2.2 To approve the implementation of discount prices where considered appropriate to meet market conditions, to improve operational efficiency, to achieve financial benefits or to encourage participation by the Authority's target groups.
- 3.2.3 To negotiate fees for hiring of indoor and outdoor entertainment.
- 3.2.4 To subsidise the cost of facilities for any event held at any of the City Council's leisure, libraries and cultural facilities in accordance with the Council's approved terms and conditions.
- ~~3.2.5 To grant <sup>[BL4]</sup> permission for events on public lands (including the Guildhall Square open space and Cultural Quarter) and, where applicable, to make appropriate charges.~~
- ~~3.2.63.2.5~~ To grant permission for the use of Speakers' Corner at Hoglands Park, and where appropriate, to make proper charge.
- ~~3.2.73.2.6~~ In association with the Chipperfield Advisory Committee, to select and acquire works of art for the collection under the Chipperfield Bequest, up to the value of £125,000, subject to the necessary finance being available.
- ~~3.2.83.2.7~~ To select and acquire works of art for the collection under the Smith Bequest.
- ~~3.2.93.2.8~~ To grant permission for loans from and to the collections and to permit the reproduction of work from the collection.
- ~~3.2.103.2.9~~ To select works and subjects and to arrange for their reproduction for art gallery and museum purposes, subject to proper charges being made where appropriate.
- ~~3.2.113.2.10~~ To enter into standard agreements for the carrying out of archaeological works
- ~~3.2.123.2.11~~ To allocate the annual interest on the sports fund to support outstanding individual sportsmen and sportswomen resident in the City.

## PART 3 – PLACE DIRECTORATE

- [3.2.133.2.12](#) To design and implement such short term incentive and/or promotional / marketing schemes that are considered necessary to meet market conditions, to improve operational efficiency and/or to achieve financial benefits at any leisure venue or within any area of leisure activity.
- [3.2.143.2.13](#) To negotiate on and accept prices for events, including trade fees and admission charges, subject to the proviso that these conform to any relevant Council policy.
- [3.2.153.2.14](#) To obtain additional software licences for any library IT when the user base expands.
- [3.2.163.2.15](#) To set levels of royalty payment and agree licences to print.
- [3.2.173.2.16](#) To sign agreements for copying from books and journals.
- [3.2.183.2.17](#) Subject to obtaining the necessary licences, to take multiple abstracts from national newspapers.
- [3.2.193.2.18](#) To accept publicity for display from outside bodies, subject to any legal requirements and policies adopted by the Council.
- [3.2.203.2.19](#) To take whatever action is necessary in respect of library fines, and costs / charges for lost books, photocopying, loans, etc, including waiving or reducing.
- [3.2.213.2.20](#) To revise the Implementation Plan for the Arts and Heritage Acquisition and Disposal Policies for Museum Accreditation, following consultation with the relevant Cabinet Member.
- [3.2.223.2.21](#) To use the David and Liza Brown Bequest Fund for the purchase of works of art for the Art Gallery's permanent collection in the future.
- [3.2.233.2.22](#) To provide appropriate support to the Southampton Cultural Development Trust following consultation with the relevant Cabinet Member.

### **Film Requests**

- [3.2.243.2.23](#) To grant permission for filming requests on Council land or premises and to make a charge, where applicable.
- [3.2.253.2.24](#) Wherever possible acts as City liaison to promote filming at privately owned locations and retains a location finder's administrative charge, where applicable.

### **PLANNING, TRANSPORT & SUSTAINABILITY**

- [3.2.263.2.25](#) To exercise all Planning, ~~Transport, Highways, Parking, Flood Risk Management, Energy Management and Sustainability~~ functions exercisable by the Council in its capacity as a local authority.

## PART 3 – PLACE DIRECTORATE

~~3.2-273.2.26~~ To act and to exercise the functions of the Council under all current or future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Head of Service. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.

~~3.2-283.2.27~~ To purchase services or sell spare capacity where there is a financial, service or other benefit to the authority.

~~3.2-293.2.28~~ To enter into professional transport, sustainability, planning and building control memberships in the interests of the authority.

~~3.2-303.2.29~~ Unless directed by the appropriate Cabinet Member or the Director, Place to consult them or others:

To respond to consultations and requests for submissions from Central Government, regional bodies, local authorities and other organisations concerning sustainability, planning, coastal and transport issues, including:

- a. Government Green and White Papers and draft guidance notes;
- b. Development Plans;
- c. the provision and sharing of data and research initiatives;
- d. planning applications and pre-application enquiries; and
- e. European and other international service programme activities (following, as appropriate, consultation with the International Affairs Manager).

~~3.2-313.2.30~~ To liaise with the County Council, Portsmouth City Council, PUSH, Solent LEP and other relevant authorities in Hampshire on strategic spatial planning, transport, ~~flood risk management~~ and energy issues.

~~3.2-32~~ ~~To represent the Council on flood defence, coastal defence and European Marine Site Management Groups.~~

~~3.2-333.2.31~~ To determine fees and charges under the Building (Local Authority Charges) Regulations, after consultation with the BC Partnership.

~~3.2-343.2.32~~ To issue and refuse safety certificates, under the Safety at Sports Grounds Act 1975 and Fire Safety and Safety of Places of Sports Act 1987.

~~3.2-353.2.33~~ Power to obtain information under Section 330 of the Town and Country Planning Act 1990 about interests in land or under section 171C Town and Country Planning Act 1990.

~~3.2-363.2.34~~ To execute work in default of compliance with any notice served and to demand the recovery of expenses incurred by the authority.

## PART 3 – PLACE DIRECTORATE

[3.2.373.2.35](#) To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.

[3.2.383.2.36](#) To authorise staff under the authority of the Head of Culture & Planning to enter premises where such action is necessary to conduct duties and is authorised by legislation.

[3.2.393.2.37](#) Following appropriate consultation with the Cabinet Member, the spokespersons of other political groups for Environment and Transport and where appropriate, with members of partner authorities to prepare “proofs of evidence” presented on behalf of the Council to any relevant examination or inquiry.

[3.2.403.2.38](#) To monitor the application of the Planning Enforcement Policy, conduct any necessary reviews of the policy and, after consultation with the Head of Legal & Democratic Services, to make any changes to the policy necessary.

### **Wildlife and Countryside Act 1981 as amended by the Countryside and Rights of Way Act 2000 and other legislation**

[3.2.413.2.39](#) All functions, powers and duties under Section 53 (duty to keep a definitive map and statement under review), including

- (i) Under Section 53A, power to include modifications in other orders; and
- (ii) Under Section 53B, duty to keep a register of prescribed information with respect to applications under section 53(5).

[3.2.423.2.40](#) Power to prepare a map and statement by way of consolidation of definitive map and statement, under section 57A.

[3.2.433.2.41](#) To take action, where necessary, under section 149 of the Highways Act 1980 including the institution of prosecutions, to remove obstructions from footpaths and pavements.

[3.2.443.2.42](#) To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation following consultation with the Head of Legal & Democratic Services.

### **Byelaws**

[3.2.453.2.43](#) To determine applications for registration under s4 of the Hampshire Act 1983.

### **Powers of Entry**

## PART 3 – PLACE DIRECTORATE

[3.2.463.2.44](#) To authorise officers of the Culture and Planning Division to exercise powers of entry in respect of the Town and Country Planning Act 1990, including section 196A, section 214B and section 324 relating to their functional responsibilities.

### **General Powers and Appointment of Officers**

[3.2.473.2.45](#) To appoint officers for the implementation of the Council's functions under all relevant legislation.

[3.2.483.2.46](#) To authorise the institution of legal proceedings for the contravention or failure to comply with notices served under the legislation in this Division's section of the Scheme.

### **Neighbourhood Areas / Plans**

[3.2.493.2.47](#) In relation to Examination of a Neighbourhood Development Plan in accordance with s.38A of the Planning & Compulsory Purchase Act 2004 and Schedule 4B of the Town & Country Planning Act 1990, to determine whether or not the procedural requirements for the preparation of the Plan have been met, to take all action necessary to consult on the Plan, to prepare, following consultation with the relevant Cabinet and Ward Members, the Council's comments on the Plan and to submit the Plan together with all ancillary documents for Examination.

[3.2.503.2.48](#) To take all action necessary to receive, process, carry out statutory consultation on and to determine any application for designation of a neighbourhood area received in accordance with Sections 61G and 61H of the Town & Country Planning Act 1990.

**3.3 HEAD OF PROPERTY**

3.3.1 To deal with applications for landlord's consent to submitted plans, except in cases where some unusual factor is present and on which a policy decision is needed. Where consent is given, the under mentioned Standard Conditions I or II be attached as appropriate:

Standard Condition I:

- a. Compliance in all respects with all byelaws, licences and other consents applicable to the property and, in particular, with the conditional planning permission  
Code No ..... dated .....
- b. The work to be completed in all respects to the satisfaction of the City Council, which shall be evidenced by the City Council's certification to that effect.
- c. The consent as landowner shall not affect, restrict or diminish the powers or rights of the City Council as a local authority.

Standard Condition II (applicable where a formal licence is required):

- i. Compliance in all respects with all byelaws, licences and other consents applicable to the property and, in particular, with the conditional planning permission  
Code No ..... dated .....
- ii. The execution of such formal deed containing such provisions to safeguard the interests of the City Council as the Head of Legal & Democratic Services may determine.

- 3.3.2
  - a. To approve the principle of and negotiate and agree terms of sale of freehold reversionary interests secured on individual dwellings originally constructed by either the Council or self-build groups to the owner-occupier;
  - b. To negotiate and agree the terms of sale of all other property providing the consideration does not exceed £300,000.
  - c. To negotiate and agree terms of sale of property exceeding £300,000 in value providing the consideration does not exceed £1 million, following consultation with the relevant Cabinet Member.
- 3.3.3 To agree with the Valuation Officer / Treasury Valuer assessments in respect of all properties for which the Council is the ratepayer or is seeking contributions in lieu of rates as Rating Authority, and to make references to the Valuation Tribunal as appropriate.

## PART 3 – PLACE DIRECTORATE

- 3.3.4 To determine applications for home loss payments under the Land Compensation Act 1973.
- 3.3.5 To revise charges made for room bookings within Civic Buildings.
- 3.3.6 To approve the surrender or assignment of any lease, licence, wayleave or easement by Agreement between the parties.
- 3.3.7 To approve terms for acquisition of land pursuant to an authorised agreement under Section 106 Town and Country Planning Act 1990, or as a condition in a planning consent provided there are no abnormal or onerous liabilities attached to the acquisition, the purchase price is nominal and there is finance allocated for ongoing maintenance.
- 3.3.8 To approve variations to the terms of leases, licences, easements or wayleaves, covenants or any other transaction when the consideration for the variation does not exceed £75,000 per annum or a premium payment of £750,000, provided sufficient finance is available.
- 3.3.9 To approve the following up to the financial limits specified, subject to sufficient finance being available:
- a. easements granted by or granted to the Council ;
  - b. disturbance claims or ex gratia payments;
  - c. settlement and apportionment of well maintained payments due under the Housing Acts where agreement can be reached with the parties;
  - d. lettings up to and including on a year to year basis;
  - e. any other lettings, renewals or rent / licence fee reviews where the reviewed rent / fee is no less than the amount previously due, except where the reduction is no more than £25,000 and to sign rent review memoranda in all cases; following approval;
  - f. the authority to restructure ground leases where additional rental is generated and/or where the consideration comprises wholly or partly of a premium payment and the premium does not exceed £125,000; and
  - g. applications for rent reductions on Investment Property providing corresponding estate management benefits are secured by the Council and the new terms are not below market value, to be exercised following consultation with the Chief Financial Officer.
- 3.3.10 Following consultation with the relevant Head of Service, to grant licences for works on land.



## PART 3 – PLACE DIRECTORATE

- 3.3.11 a. To approve the exchange of land with a third party where the Council's existing land value is estimated to be no more than £300,000; and
- b. To approve the exchange of land with a third party where the Council's existing land value is estimated to be greater than £300,000 providing the consideration does not exceed £1 million, following consultation with the relevant Cabinet Member .
- 3.3.12 To approve appropriations between relevant function areas and statutory holding powers except where public notice of the proposed appropriation is required and objections are received.
- 3.3.13 To approve, under Corporate Property Standards, any major alteration, refurbishment or new project on land in which the Council has an interest providing that the proposed expenditure does not exceed £1 million.
- 3.3.14 To approve the temporary use of property, pending long-term use.
- 3.3.15 To manage the Council's investment, social and general purpose property portfolios.
- 3.3.16 To perform all functions of the Council in respect of its responsibilities and powers under the Party Walls etc Act 1996, including the service and response to Statutory Notices, appointment of Party Wall Surveyors and compliance with all steps required by any Party Walls Award.
- 3.3.17 Authority to exercise the powers and duties of the Council under the Landlord and Tenant (Covenants) Act 1995.
- 3.3.18 To grant and sign licences in a form approved by the Head of Legal & Democratic Services.
- 3.3.19 To approve the acceptance of tenders for land disposals, whether the highest bid or not, up to £1 million capital (where the principle of the disposal has already been approved) or £100,000 per annum revenue income.
- 3.3.20 To agree compensation under Land Compensation legislation where no interest in the land is acquired by the Council.
- 3.3.21 To carry out site investigations and soil surveys, where necessary, to establish the development potential of vacant land subject to the availability of the necessary finance to carry out such investigations.
- 3.3.22 To place property on the market in accordance with Corporate Standards with a view to a disposal.

## PART 3 – PLACE DIRECTORATE

- 3.3.23 To appoint external agents or consultants to provide specialist services in respect of the Council's property portfolio, subject to compliance with Financial Procedure Rules and Contract Procedure Rules.
- 3.3.24 To approve the acquisition of a lease or licence in property where service areas of the Council operate partnerships with external bodies and funding is available.
- 3.3.25 To approve the acquisition of minor interests in property, provided the consideration does not exceed a premium payment of £500,000 or £100,000 per annum, provided sufficient finance is available, after consultation with the relevant Cabinet Member.
- 3.3.26 To authorise the variation of individual projects in the approved Capital Building Maintenance (non-housing) programme during its implementation, should this be required as a result of urgent or unforeseen repair needs arising, or services requirement changes.
- 3.3.27 To add new projects or remove projects from the approved Capital Building Maintenance (non-housing) programme project list following consultation with the relevant Cabinet Member.
- 3.3.28 To vary the timing and cost of projects already within the approved Capital Building Maintenance (non-housing) Programme as may be required, following consultation with the relevant Cabinet Members (for the Capital Programme and the building concerned, if different).
- 3.3.29 To approve claims for dilapidations in respect of leasehold interests granted by the Council, or granted to the Council, provided the consideration does not exceed £1 million, and provided sufficient finance is available.
- 3.3.30 To authorise lease surrenders and/or renewals to Scout or Guide Groups or other community or charitable organisations which include any underlet for any purpose authorised by s.2 Local Government Act 2000 at rents less than best consideration where it is proposed to underlet to a nursery provider or similar community use.
- 3.3.31 To approve lettings or lease renewals at less than best consideration where the principle of letting to the organisation concerned has already been approved (by virtue of a previous letting or any other appropriate means) or where the Council is obliged to renew a letting by virtue of Landlord and Tenant legislation.
- [3.3.32 To delegate authority to the Head of Property, in consultation with the Cabinet Member for Resources and Leisure, to enter into option agreements, disposals or any other property transactions with the Public Sector plc, to progress redevelopment and property schemes in line with the Council's Corporate Property Strategy.](#)

**3.4 HEAD OF TRANSPORT, HIGHWAYS & PARKING**

(TO BE CARRIED OUT BY THE INTERIM TRAVEL & TRANSPORT MANAGER DURING THE TRANSFORMATION PROJECT)

- 3.4.1 To amend the proposed five year Capital Programme in the light of ongoing consultation with the Government.
- 3.4.2 To enter into, vary and determine public transport contracts in order to optimise the delivery of transport policy objectives and maintain reliable services.
- 3.4.3 To liaise with and respond to consultation from neighbouring authorities, from public transport operators and public transport infrastructure providers on services, routes and timetables and other bodies on local and strategic transport matters including public transport services, routes and timetables, and implications.
- 3.4.4 To respond to consultations and requests for submission from Government Departments, other local authorities, international, European, academic, research, business representatives and other bodies in respect of:
  - a. provision and sharing of data and research initiatives;
  - b. transport and infrastructure issues; and
  - c. professional engineering issues.
- 3.4.5 To submit expressions of interest, funding bids, undertake research, enter into (and vary) development projects with external partnerships within estimates, including seeking external funding or joining funding partnerships.
- 3.4.6 To introduce mini-roundabouts where it is thought that these may improve traffic conditions.
- 3.4.7 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation, to take any actions necessary in relation to parking control, car parks, lorry parks, the issue of penalty, standard and excess charge notices and notices of offence.
- 3.4.8 Following consultation with the Head of Legal & Democratic Services:
  - a. to introduce temporary road closures and other temporary traffic restrictions on the highway;
  - b. to maintain a list of all closures authorised under this delegated procedure, including the reason for the restriction and its predicted and actual duration;
- 3.4.9 To issue consent under the Highways Act 1980 to build over an improvement line where planning permission is granted for the development which crosses an improvement line, following consultation with the Head of Culture and Planning.

## PART 3 – PLACE DIRECTORATE

- 3.4.10 Authority to do anything necessary on behalf of the Highway Authority to give effect to decisions relating to Sections 37, 38 and 278 of the Highways Act, 1980, including entering into agreements, approving plans, inspecting works and requiring the necessary fees from developers when negotiating works and agreements for the adoption of highways on behalf of the Highway Authority.
- 3.4.11 To make any order or decision, grant any licence or take any ancillary action (including setting, varying and removing charges), relating to highways and traffic management matters such as but not confined to, Traffic Regulation Orders, under the following legislation, subject to the right of appeal to the Appeals Panel by any person permitted under the relevant legislation to object to the making of any such order or decision:
- Clean Neighbourhood and Environment Act 2005
  - Countryside and Rights of Way Act 2000
  - Crime and Disorder Act 1998 (Section 17)
  - Criminal Justice and Public Order Act 1994
  - Hampshire Act 1983
  - Highways Act 1980
  - Local Government Act 1972 (Section 111)
  - Local Government Act 2000 (Section 2)
  - Local Government (Miscellaneous Provisions) Act 1976
  - New Roads and Street Works Act 1991
  - Public Health Act 1925
  - Public Health Act 1875
  - Refuse Disposal (Amenity) Act 1978
  - Road Humps Regulations 1990
  - Road Traffic Act 1988 (re cycle races)
  - Road Traffic Act 1991
  - Road Traffic Regulation Act 1984 (including orders made under Pedestrian Crossings Regulations and Traffic Signs Regulations and General Directions.
  - Transport Acts 1985 and 2000
  - Road Traffic Regulation (Special Events) Act 1994
  - Road Traffic (Temporary Restrictions) Act 1991
  - Town and Country Planning Acts
  - Town Police Clauses Act 1847
  - Traffic Calming Act 1992
  - Traffic Management Act 2004
- 3.4.12 To determine and vary the Highways and Parking Capital and Planned Maintenance Programmes in accordance with the policies and other criteria set by the Authority, after consultation with the appropriate Policy Coordinator,
- 3.4.13 To submit expressions of interest, research, enter into (and vary) development projects with external partnerships within estimates, including seeking external funding or joining funding partnerships.

## PART 3 – PLACE DIRECTORATE

- 3.4.14 To serve notice requiring payment for works carried out in default.
- 3.4.15 To execute work in default of compliance of any notice served and to demand the recovery of expenses incurred by the local authority.
- 3.4.16 To affix statutory notices to and to arrange for the removal of, vehicles deemed to be abandoned on public land.
- 3.4.17 To make decisions in respect of the use and release of videotapes and other data arising from CCTV equipment under the control of the division, including responding to requests from the police, insurers, media and members of the public.
- 3.4.18 To purchase services or sell spare capacity where there is a financial, service or other benefit to the authority.
- 3.4.19 To enter into professional memberships in the interests of the authority.
- 3.4.20 To act as “Engineer”, “Employer” or any designation attributable to any other officer under a standard form of contract or partnership arrangement for the purposes of engineering contracts let by the authority.
- 3.4.21 To issue permits allowing building materials to be temporarily deposited on the highway.
- 3.4.22 To issue street works licences allowing excavations to be made in the public highway.
- 3.4.23 To issue permits allowing the temporary erection of scaffolding and hoardings on highways.
- 3.4.24 To issue permits allowing builders’ skips to be temporarily deposited on the highway.
- 3.4.25 To take action, where necessary, under Sections 148 and 154 of the Highways Act 1980 including the institution of prosecutions to remove deposits from footpaths and pavements and to control overhanging vegetation.
- 3.4.26 To serve a remedial notice on the landowner from which trees, hedges or shrubs emanate where they are considered to endanger or obstruct the passage of vehicles or pedestrians. To carry out works in default of this notice and do anything ancillary to this work pursuant to section 154 of Highways Act 1980.
- 3.4.27 To respond on behalf of the Council to statutory undertakers proposals to install their equipment in the highway.
- 3.4.28 Following consultation with the relevant Cabinet Member, annually review the Transport Asset Management Plan.

## PART 3 – PLACE DIRECTORATE

- 3.4.29 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.
- 3.4.30 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.
- 3.4.31 To serve street litter control notices.
- 3.4.32 To undertake any necessary investigative work for the purposes of enforcement including issue a fixed penalty notices or any other notice on any person or person found littering, flyposting or committing graffiti pursuant to the Environmental Protection Act 1990, Clean Neighbourhood and Environment Act 2005, the Anti-Social Behaviour Act 2003, the Highways Act 1980 and the Town and Country Planning Act 1990.
- 3.4.33 All City Parking functions exercisable by the Council in its capacity as a local authority shall be delegated to the Head of Regulatory and City Services.

### **Refuse Disposal (Amenity) Act 1978**

- 3.4.34 All powers and duties under the Refuse Disposal (Amenity) Act including but not restricted to the power to serve notice under Sections 3 and 6 of the Act to deal with abandoned motor vehicles.

### **Highways Act 1980**

- 3.4.35 Under Section 31A, a duty to keep a register of information with respect to maps, statements and declarations.
- 3.4.36 Under Section 119A, power to make a rail crossing diversion order.
- 3.4.37 Under Section 119B, power to make a special diversion order.
- 3.4.38 Under Section 119C(3), power to require application for order to enter into agreement.
- 3.4.39 Under Section 119D, power to make an SSSI diversion order.
- 3.4.40 Under Section 121B, duty to keep a register with respect to applications under section 118ZA, 118C, 119ZA and 119C.
- 3.4.41 Under Section 130, duty to assert and protect the rights of the public to use and enjoyment of highways.

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- 3.4.42 Under Section 130A, duty to serve notice of proposed action in relation to obstruction.
- 3.4.43 Under Section 135, power to authorise temporary disturbance of surface of footpath or bridleway.
- 3.4.44 Under Section 153B, functions relating to the making good of damage and the removal of obstructions.
- 3.4.45 To issue Licences under Section 176, 177 and 178.
- 3.4.46 Power to licence planting, retention and maintenance of trees etc in part of the highway (Section 142).
- 3.4.47 Power to consent to the construction of cellars etc under the street (Section 179).
- 3.4.48 Power to consent to the making of openings into cellars, etc under the street and pavement lights and ventilators (Section 180).
- 3.4.49 Authority to do anything necessary on behalf of the Highway Authority to give effect to decisions relating to Sections 37, 38 and 278 of the Highways Act, 1980, including entering into agreements, approving plans, inspecting works and requiring the necessary fees from developers on behalf of the City Council when negotiating works and agreements for the adoption of highways on behalf of the Highway Authority.
- 3.4.50 To issue permits allowing vehicles into “Pedestrian Only” streets in order to carry out essential works, after consultation with the Head of Regulatory and City Services.
- 3.4.51 To agree street naming and numbering.
- 3.4.52 To serve notice requiring payment for works carried out in default.
- 3.4.53 To execute work in default of compliance of any notice served and to demand the recovery of expenses incurred by the Local Authority.
- 3.4.54 To take any action in relation to or associated with HGV Operators’ Licences.
- 3.4.55 All City Parking and Patrol Services functions exercisable by the Council in its capacity as a local authority shall be delegated to the Head of Regulatory and City Services.
- 3.4.56 To enter into agreements with external bodies for the purpose of maintaining and managing the highway, transport asset management, on and off street car parks maintenance and management.

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- 3.4.57 To deal with applications for the use of car parks on their individual merits, normally to be granted only to charities and non-profit organisations, following consultation with the Head of Legal & Democratic Services.
- 3.4.58 To grant permission for use of Council car parks for display purposes, following consultation with the Head of Legal & Democratic Services.
- 3.4.59 To advertise proposed disabled persons' parking bays in accordance with Council policy.
- 3.4.64 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation, to take any actions necessary in relation to parking control, car parks, lorry parks, the issue of penalty, standard and excess charge notices and notices of offence.
- 3.4.65 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation and Council policy to take actions to manage the residents parking schemes, and in relation to parking control the waiving of the penalty, standard or excess charge: the acceptance of an alternative amount in lieu of the penalty, standard or excess charge: the service of notices to ascertain the identify of the driver of a vehicle, the initiation of prosecutions and the issue of permits, dispensations and waivers.
- 3.4.66 In accordance with orders made under the Road Traffic Regulation Act 1984 and subsequent legislation and Council policy to take actions necessary to manage the pay and display and pay on foot systems of parking control in car parks and lorry parks; issue of penalty, standard and excess charges notices and notices of offence; the sale of prepaid parking tickets; the collection of parking charges; the initiation of prosecutions; and the issue of permits, dispensations and waivers.
- 3.4.67 To make any order or decision, grant any licence or take any ancillary action (including setting, varying and removing charges), in relation to Parking matters:  
Clean Neighbourhood and Environment Act 2005  
Countryside and Rights of Way Act 2000  
Crime and Disorder Act 1998 (Section 17)  
Criminal Justice and Public Order Act 1994  
Hampshire Act 1983  
Highways Act 1980  
Local Government Act 1972 (Section 111)  
Local Government Act 2000 (Section 2)  
Local Government (Miscellaneous Provisions) Act 1976  
Refuse Disposal (Amenity) Act 1978  
Road Traffic Act 1991  
Road Traffic Regulation Act 1984 (including orders made under Pedestrian Crossings Regulations and Traffic Signs Regulations and General Directions.



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### Traffic Management Act 2004

- 3.4.68 To determine and vary the Parking Capital and Planned Maintenance Programmes in accordance with the policies and other criteria set by the authority.
- 3.4.69 To issue permits allowing vehicles into “Pedestrian Only” streets in order to carry out essential works.
- 3.4.70 To submit expressions of interest, research, enter into (and vary) development projects with external partnerships within estimates, including seeking external funding or joining funding partnerships.
- 3.4.71 To serve notice requiring payment for works carried out in default.
- 3.4.72 To execute work in default of compliance of any notice served and to demand the recovery of expenses incurred by the local authority.
- 3.4.73 To affix statutory notices to and to arrange for the removal of, vehicles deemed to be abandoned on public land.
- 3.4.74 To register unpaid penalty charges (Charge Certificates) at the Traffic Enforcement Centre (County Court Bulk Centre) and to seek warrants of execution to complete the recovery process.
- 3.4.75 To present the Council’s evidence to the National Parking Adjudication Service.
- 3.4.76 To make decisions in respect of the use and release of videotapes and other data arising from CCTV equipment under the control of the division, including responding to requests from the police, insurers, media and members of the public.
- 3.4.77 To purchase services or sell spare capacity where there is a financial, service or other benefit to the authority.
- 3.4.78 To issue permits allowing building materials to be temporarily deposited on the highway.
- 3.4.79 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.
- 3.4.80 To serve street litter control notices.
- 3.4.81 To undertake any necessary investigative work for the purposes of enforcement including issue a fixed penalty notices or any other notice on any person or person found littering, flyposting, or committing graffiti pursuant to the Environmental Protection Act 1990, Clean Neighbourhood and Environment Act 2005, the Anti-

## PART 3 – PLACE DIRECTORATE

Social Behaviour Act 2003, the Highways Act 1980 and the Town and Country Planning Act 1990, Blue Badge & Parking Permit fraud.

3.4.82 To approve the issue of civil penalty notices in Cemetery Road and to respond to appeals (challenges) against the issue of any notice.

3.4.83 To take any action in relation to or associated with HGV Operators' Licences.

3.4.83.4.84 To exercise all Transport, Highways and Parking functions exercisable by the Council in its capacity as a local authority.

**3.5 ENERGY AND SUSTAINABILITY MANAGER**

3.5.1 To respond to consultations and requests for submission from Government Departments, other local authorities, international, European, academic, research, business representatives and other bodies in respect of:

- a. provision and sharing of data and research initiatives;
- b. transport and infrastructure issues;
- c. professional engineering issues

3.5.2 To submit expressions of interest, funding bids, undertake research, enter into (and vary) development projects with external partnerships within estimates, including seeking external funding or joining funding partnerships.

[3.5.3 To exercise all Energy Management and Sustainability functions exercisable by the Council in its capacity as a local authority.](#)

### 3.6 PLANNING AND DEVELOPMENT MANAGER

- 3.6.1 To determine planning applications and any other applications, submissions, consents, etc required to be made and to be determined by the Local Planning Authority subject to the following restrictions:
- a. For planning applications (therefore, applications for advertisement consent, prior approval, time limited applications, lawful development certificates, etc are excluded) that fall within the major, minor or other category (as defined by the Government), and where within the standard 21-day publicity period a request made in writing on the prescribed Call-in Form, giving valid and material planning grounds, by a ward member of the ward in which the application site predominantly falls, or if supported by where at least five written letters of representation (where such representation is contrary to the officer's recommendation) (discounting petitions, proforma and circulated standard letters) on valid and appropriate material planning grounds have been received from five different individuals within the administrative ward of the City the development lies) shall be brought to the Planning and Rights of Way Panel meeting for discussion. If a request by a member is received after the publicity period, or the necessary five independent properly addressed letters of representation (where such representation is contrary to the officer's recommendation) are received after the publicity period, the consideration of referral to the Panel will be at the discretion of the Planning and Development Manager after consultation with the Chair of the Planning and Rights of Way Panel;
  - b. Where the proposal is contrary to policies contained within the development plan and where three or more objections are received in writing from at least three different individuals;
  - c. applications which the Planning and Development Manager considers to be of particular interest, strategic importance or wider public interest shall be referred to the Planning and Rights of Way Panel;
- 3.6.2 Where appropriate, to instruct the Head of Legal & Democratic Services to serve any notices in pursuance of regularising breaches of planning (and other relevant legislation), commence court proceedings and to complete or seal agreements, , in respect of (but not restricted to) the following:
- a. Notices under Section 215 of the Town and Country Planning Act 1990 (Amenity Notices);

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- b. Notices under Section 171 of the Town and Country Planning Act 1990 (Planning Contravention Notices);
- c. Notices under Section 187A of the Town and Country Planning Act 1990 (Breach of Conditions Notices);
- d. Notices under section 172 of the Town and Country Planning Act 1990 (Enforcement Notices)
- e. To institute emergency proceedings to take necessary enforcement action to restrain breaches of planning control (including listed building control), under section 171E (temporary stop notices); section 183 (stop notices); section 187B (injunctions restraining breach of planning control) of the Town and Country Planning Act 1990; section 44A of the Listed Buildings Act 1990 (injunctions restraining breach of listed building control); section 214A (injunctions in relation to tree preservation orders), following consultation with the Head of Legal & Democratic Services;
- f. Directions under Article 4 of the General Permitted Development Order 1995 removing development rights to demolish a building upon a receipt of a predetermination application subject to a report for confirmation being submitted to a subsequent meeting of the Planning and Rights of Way Panel;
- g. Hazardous substances contravention's notices;
- h. Revocation or modification of Hazardous Substances Consents;
- i. Prosecution for illegal display of advertisements;
- j. To decide whether an assessment and environmental statement is required under the Environmental Assessment Regulations; and to respond to requests for screening and scoping opinions under those Regulations;
- k. To decide whether development is likely to have a significant affect on land protected under international designation; and to carry out appropriate assessment as required by the Habitat Regulations where the Council is the competent authority;
- l. Authority to enter into agreements, approve plans, inspect works and require reasonable fees from developers on behalf of the Council, as highway authority, when negotiating works agreements for the adoption of highways under Sections 38 and 278 of the Highways Act 1980;
- m. To agree to the adoption of new highways arising from new development under Section 38 of the Highways Act 1980 by the Council as highway authority;
- n. To allocate or reallocate postal numbers in respect of any properties in the City;

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- o. To issue and serve notices under the Advance Payment Code of the Highways Act 1980;
  - p. To inspect Private Streets and where necessary instruct the Head of Legal & Democratic Services to serve notices where required for the repair of such streets. To initiate works in default of compliance with the requirements of such notices;
  - q. To authorise persons to enter any land without a warrant or under warrant in accordance with Sections 196A and 196B of the Town and Country Planning Act 1990 or under section 324 of the same Act;
  - r. To authorise the Head of Legal & Democratic Services to sign unilateral undertakings, or enter into agreements under Section 106 of the Town and Country Planning Act 1990, to undertake deeds of variation and subsequently amend any terms previously agreed, unless the Planning and Rights of Way Panel has asked for those discussions to be referred back to it;
- 3.6.3 Power to make, modify or vary, revoke but not confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990 and to confirm such orders except where valid objections are received.
- 3.6.4 To make any order, notice or decision, grant any license, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.
- 3.6.5 To determine applications for works to trees that are subject to protection by Tree Preservation Order and to impose such conditions on any consent that s/he deems appropriate.
- 3.6.6 To serve a notice to plant replacement trees, where they are a requirement of the land owner's duty to replace under Section 206 of the Town and Country Planning Act 1990 or where replacements have been conditioned under a tree works decision notice.
- 3.6.7 To execute works in default of non-compliance with a notice to replant trees and to recover all reasonable costs from the landowner.
- 3.6.8 To agree street naming and numbering.

**3.7 HEAD OF DEVELOPMENT, ECONOMY & HOUSING RENEWAL**

- 3.7.1 To carry out site investigations and soil surveys in relation to major development sites, where necessary, to establish the development potential of vacant land, subject to the availability of the necessary finance to carry out such investigations.
- 3.7.2 Together with the Head of Property and the Head of Culture and Planning, to undertake the acquisition of land for approved major development schemes, following consultation with the Head of Legal & Democratic Services.
- 3.7.3 To determine the City Council's membership of "Forum of the Future" annually.
- 3.7.4 To determine applications for authorisation to entertain in Above Bar Precinct.
- 3.7.5 To liaise with economic partnerships and other economic bodies to represent the Council's interests on economic issues.
- 3.7.6 To grant use of the Above Bar pedestrian precinct and Bargate pedestrian area following consultation with the Head of Legal & Democratic Services in accordance with conditions laid down and Part VIIA of the Highways Act 1980 where applicable, and where appropriate to make a proper charge.
- 3.7.7 To set a level for donations for the placing of temporary objects on the paved area outside the Bargate.
- 3.7.8 To submit bids for or tenders involving funding or assistance from central Government, European Commission or from any other source (direct or indirect to the authority itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation also applies to any new schemes not in place, and is thus framed broadly and should be applied in the same way), following consultation with the Head of Legal & Democratic Services and Chief Financial Officer.
- 3.7.9 To change the decision-making body and managerial responsibilities for any property within the Economic Development Portfolio in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Chief Financial Officer and Head of Property.
- 3.7.10 To approve variation to the terms of leases, licences, easements or wayleaves, covenants or any other transaction, subject to the approval of the Chief Financial Officer.

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- 3.7.11 To appoint external agents or consultants to provide specialist services in respect of the Council's major development schemes.
- 3.7.12 Where the Council has resolved to make a Compulsory Purchase order for a major development project or where in purchase has in principle been approved by the council to settle terms for the purchase of property and valid heads of claim, subject to the approval of the Chief Financial Officer.
- 3.7.13 After consultation with the Head of Legal & Democratic Services to accept Blight Notices which are valid and which are served in respect of major development schemes proposals.
- 3.7.14 To grant licences for works on land within the major Development project sites.
- 3.7.15 To approve the temporary use of property, pending long-term use.
- 3.7.16 To perform all functions of the Council in respect of its responsibilities and powers under the Party Walls etc Act 1996, including the service and response to Statutory Notices, appointments of Party Wall Surveyors and compliance with all steps required by any Party Walls Award in respect of Major Projects.
- 3.7.17 To make minor amendments to boundaries after consultation with the Cabinet Member to disposals in respect of approved major development schemes.
- 3.7.18 To allow developers on to council land to carry out site investigations subject to the granting of an appropriate licence.
- 3.7.19 To make amendments to the Housing Strategy 2011-2015 following consultation with the Cabinet Member and further consultation with the relevant Scrutiny Panel.
- 3.7.20 To grant licences for works on land within the major development project sites.
- 3.1.25 In relation to the Private Sector Housing Strategy to:
- a. alter existing or introduce new formulae to calculate loan repayment sums in respect of financial assistance packages;
  - b. approve adjustments to the occupancy terms for the grant element of existing and new financial assistance packages; and
  - c. approve the introduction of subsequent financial assistance packages developed, and any significant alterations to the criteria of existing packages following consultation with the appropriate Cabinet Member and the Chief Financial Officer.
- 3.7.21 To authorise and implement changes to the "Decants and Permanent Rehousing due to the decommissioning of Council Housing Stock – Rented or Leasehold" as



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required, following consultation with the Cabinet Member responsible and Chief Financial Officer.

- 3.7.22 To make minor amendments to boundaries after consultation with the relevant Cabinet Member to disposals in respect of approved major development schemes.
- 3.7.23 To allow developers on to Council land to carry out site investigations subject to the granting of an appropriate licence.

### ESTATE REGENERATION

- 3.7.24 To approve after consultation with the relevant Cabinet Member terms for the repurchase of property sold through the Right to Buy process and compensation payments to business tenants to facilitate site assembly for Estate Regeneration Projects, where Cabinet approval exists for these land acquisitions.
- 3.7.25 Following consultation with the relevant Cabinet Member responsible, Head of Legal & Democratic Services, Chief Financial Officer and Head of Property to demolish properties or dispose of land held within the Housing Revenue Account subject to best consideration being received for vacant properties, vacant sites or garages for the purposes of estate regeneration and the development of new housing.
- 3.7.26 Following consultation with the relevant Cabinet Member responsible, Head of Legal & Democratic Services, Chief Financial Officer and Head of Property and subject to funding and budgetary approval being in place, to acquire land for the purposes of estate regeneration and to secure demolition of any buildings if appropriate.
- 3.7.27 To commence a programme of consultation and engagement with residents and stakeholders on sites identified for redevelopment, subject to consultation with the Chief Financial Officer and relevant Cabinet Member.
- 3.7.28 To accept, in accordance with FPR any grant funding towards the costs of the Estate Regeneration project and as a consequence:
  - a) increase the capital budget for this project by the value of the grants received; and
  - b) increase the scheme approval sums by the value of the grant received.
- 3.7.29 Following consultation with the relevant Cabinet Member responsible, Head of Legal & Democratic Services, Chief Financial Officer and Head of Property to:
  - a. procure a development partner to redevelop the four sites identified (Cumbrian Way, Exford Avenue, Meggeson Avenue and Laxton Close) or any of them or any combination;

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- b. enter into a development agreement to deliver the redevelopments including, if required, disposal of freehold;
- c. acquire, where terms can be agreed, adjoining parcels of land; and
- d. accept, in accordance with Financial Procedure Rules, any grant funding towards the costs of the redevelopment of the four estate regeneration sites.

3.7.30 To approve homeloss, disturbance and ex-gratia payments for removal expenses for displaced tenants on modernisation or major works of Council dwellings.

### **3.8 HEAD OF REGULATORY & CITY SERVICES**

#### REGULATORY SERVICES

- 3.8.1 To undertake all Environmental Health and Consumer Protection Services functions exercisable by the Council in its capacity as a local authority. This includes Registration and Bereavement Services' functions.
- 3.8.2 Act as Proper Officer for Registration under the Registration Service Act 1953.
- 3.8.3 Act under all current or future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Head of Service. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.
- 3.8.4 Exercise the functions of the Council in terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation:
- Administration of Justice Act 1970
  - Administration of Justice Act 1985
  - Agriculture (Miscellaneous Provisions) Act 1968
  - Agriculture Acts
  - Agriculture Produce (Grading and Marketing) Acts 1928 and 1931
  - Animal and Animal Products (Import and Export) (England and Wales) Regulations 2000
  - Animal Boarding Establishments Act 1963
  - Animal Health Act 1981
  - Animal Health Act 2002
  - Animal Welfare Act 2006
  - Anti-social Behaviour Act 2003
  - Beef Labelling (Enforcement) (England) Regulations 2000
  - Bovines and Bovine Products (Trade) Regulations 1998
  - Breeding of Dogs Act 1973 & 1991
  - Breeding and Sale of Dogs (Welfare) Act 1999
  - Breeding of Dogs (Licensing Records) Regulations 1999
  - Building Act 1984
  - Burial Act 1853
  - Business Names Act 1985
  - Business Protection from Misleading Marketing Regulations 2008
  - Bye-laws for Hairdressers and Barbers
  - Cancer Act 1939
  - Cattle Identification Regulations 2007
  - Cemeteries Order 1977
  - Children and Young Persons (Protection from Tobacco) Act 1991
  - Children and Young Persons Act 1933
  - Civil Partnership Act 2004

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Clean Air Act 1993  
Clean Neighbourhood and Environment Act 2005  
Common Agriculture Policy (Wine) (England and Northern Ireland) Regulations 2001  
Companies Act 2006  
Consumer Credit Act 1974  
Consumer Protection (Distance Selling) Regulations 2000  
Consumer Protection Act 1987  
Consumer Protection from Unfair Trading Regulations 2008  
Control of Pesticide Regulations 1986  
Control of Pollution (Anti-Fouling Paint) Regulations 1986  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright, Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Customs and Excise Management Act 1979  
Dangerous Wild Animals Act 1976  
Designation of Local (Southampton Port Health Authority) District Order 1978.  
Development of Tourism Act 1969 Tourism (Sleeping Accommodation Price Display) Order 1977  
Education Reform Act 1988  
Energy Act 1976  
Energy Conservation Act 1981  
Enterprise Act 2002  
Environment Act 1995  
Environmental Protection Act 1990  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Acts 1875  
Fireworks Act 2003  
Food Act 1984  
Food and Environment Protection Act 1985  
Food Safety Act, 1990  
Food Hygiene (England) Regulations 2006  
Food Standards Act 1999  
Foot and Mouth Disease (Control of Vaccinations) (England) Regulations 2001  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006  
Fuel (Lead Content of Petrol) Regulations 1981 (as amended);  
Fur Farming (Prohibition) Act 2000  
Hall Marking Act 1973  
Hampshire Act 1983  
Health Act 2006  
Health and Safety at Work etc Act 1974  
Home Safety Act 1961  
Housing Act 1985

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Housing Act 1996  
Housing Act 2004  
Housing Act 2004  
International Health Regulations 2005  
Intoxicating Substances (Supply) Act 1986  
Licensing Act 2003  
Local Authority Cemeteries Order 1977  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Marriage Act 1994  
Medicines Act 1968  
Motor Cycle Noise Act 1987  
Motor Fuel (Sulphur Content of Gas Oil) Regulations 1981  
Motor Vehicle (Safety Equipment for Children) Act 1991  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Non-Automatic Weighing Instruments Regulations 2000  
Olympic Symbol etc (Protection) Act 1995  
Organic Products Regulations 2001  
Performing Animals (Regulation) Act 1925  
Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951 and Pet Animals Act 1951 (Amendment) Act 1983  
Petroleum (Consolidation) Act 1928.  
Poisons Act 1972  
Police and Criminal Evidence Act 1984  
The Southampton Port Health Authority Order 2010  
Prevention of Damage by Pests Act 1949  
Prices Act 1974  
Proceed of Crimes Act 2002  
Processed Animal Proteins (England) Regulations 2001  
Products of Animal Origin (Import and Export) Regulations 1991.  
Products of Animal Origin (Import and Export)(Amended) Regulations 1997.  
Property Misdescriptions Act 1991  
Protection of Animals (Amendment) Act 2000  
Protection of Animals Act 1911  
Public Health (Control of Disease) Act 1984  
Public Health (Infectious Diseases) Regulations 1988  
Public Health Act 1936  
Public Health Act 1961  
Refuse Disposal (Amenity) Act 1978  
Road Traffic Acts 1988 and 1991  
Site Waste Management Plans Regulations 2008  
Slaughterhouses Act 1974  
Solicitors Act 1974  
Sunbed (Regulation) Act 2010  
Telecommunications Act 1984  
Theft Act 1968

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Timeshare Act 1992  
Tobacco Advertising and Promotion Act 2002  
Town and Country Planning Act 1990  
Trade Descriptions Act 1968  
Trade Marks Act 1938  
Trade Marks Acts 1994  
Unsolicited Goods and Services Acts 1971 and 1975  
Video Recordings Act 2010  
Water Act 2003  
Weights and Measures Act 1985  
Zoo Act 1981

### **REGULATORY SERVICES (COMMERICAL AND NEIGHBOURHOODS)**

#### **Animal Legislation**

- 3.8.5 To discharge the functions, duties and powers imposed by Sections 149 to 151 of the Environment Protection Act 1990 for the purpose of dealing with stray dogs (see also section 3.9.27).
- 3.8.6 All powers and duties under the Animal Boarding Establishments Act 1963 and Breeding of Dogs Act 1973 and 1991 and the Breeding and Sale of Dogs (Welfare) Act 1999 relating to licensing including but not restricted to grant and revocation.
- 3.8.7 To appoint veterinary practitioners to inspect and report upon premises requiring a licence.
- 3.8.8 All powers and duties under the Pet Animals Act 1951 relating to licensing, including but not restricted to grant and revocation.
- 3.8.9 All powers and duties under the Dangerous Wild Animals Act 1976 relating to licensing, including but not restricted to grant and revocation.
- 3.8.10 To authorise an officer to seize a dangerous dog in accordance with section 5 Dangerous Dogs Act 1991.
- 3.8.11 To continue to appoint veterinary practitioners to inspect premises requiring a licence under the Pet Animals Act 1951.
- 3.8.12 All powers and duties under the Zoo Act 1981 relating to licensing, including but not restricted to grant and revocation.
- 3.8.13 To appoint Inspectors under the Animal Welfare Act 2006.

**Anti-Social Behaviour Act 2003**

- 3.8.14 All powers and duties under the Anti-Social Behaviour Act 2003 including but not restricted to the power to serve a “defacement removal notice” under section 48 upon any person who is responsible for the surface.

**Building Act 1984**

- 3.8.15 All powers and duties under the Building Act 1984 including, but not restricted to, the powers to serve notices under Sections 59, 60, 64, 65, 66, 76, 79 and 84 of the Act relating to the sanitation, drainage and condition of buildings.

**Clean Air Acts 1993**

- 3.8.16 All powers and duties under the Clean Air Act 1993 including but not restricted to the power to serve notice under Section 58 of the Act to obtain information.

**Clean Neighbourhood and Environment Act 2005**

- 3.8.17 All powers and duties under the Clean Neighbourhood and Environment Act 2005 including but not restricted to the power to serve notice under Section 77 of the Act to silence an alarm.
- 3.8.18 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to the Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation following consultation with the Head of Legal & Democratic Services.
- 3.8.19 Following consultation with the Head of Legal & Democratic Services, to make any order, notice or decision, grant any license, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.

**Control of Pollution Act 1974 and 1989**

- 3.8.20 All powers and duties under the Control of Pollution Act 1974 and to serve notice under Sections 60, 61 and 62 of the Act to deal with noise.
- 3.8.21 All powers and duties under the Control of Pollution (Amendment) Act 1989 including, but not restricted to serve notice under sections 5 and 7.

**Environment Act 1995**

- 3.8.22 All powers and duties under the Environment Act 1995 including but not restricted to the powers outlined below.
- 3.8.23 Powers under sections 108 subsection 4 and 9 of the Act to deal with pollution.
- 3.8.24 To discharge all powers and duties in connection with air quality management areas including carrying out the review and assessment of air quality.

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- 3.8.25 To waive charges for the cleaning of filthy and verminous premises, or cleansing and/or disposal of filthy articles where payment would cause unnecessary hardship or distress and for the treatment of insect pests in domestic premises.

### **Environmental Protection Act 1990 (as amended)**

- 3.8.26 All powers and duties under the Environmental Protection Act 1990 including but not restricted to the powers outlined below.
- 3.8.27 To discharge powers and duties relating to contaminated land, under sections 78A to 78YC of the Act, including inspection and the service of notices and enforcement.
- 3.8.28 To discharge the functions, duties and powers imposed by Sections 149 –151 of the Environmental Protection Act 1990 for the purpose of dealing with stray dogs.
- 3.8.29 To determine applications for information to be treated as commercially confidential under Section 22 of the Act.
- 3.8.30 All powers and duties relating to the processes referred to in Section 6 of the Environmental Protection Act 1990 and Regulations made there under which will include but not be restricted to the grant and refusal of authorisations.
- 3.8.31 To sign and serve notices under Section 13, 14 and 19 of the Act (Enforcement and Prohibition Notices) relating to authorisations and requests for information.
- 3.8.32 To sign and serve notices under Sections 33, 34, 46, 47, 59 and 71 to deal with waste.
- 3.8.33 To sign and serve notices under Sections 80 and 80A dealing with the abatement of nuisances.
- 3.8.34 To sign and serve notices under Sections 92A, 93 and 94A dealing with litter.

### **European Communities Act 1972**

- 3.8.35 To enforce any orders or regulations made under any of the legislation contained in any power delegated in this Division's section of the Officer Scheme of Delegation or orders or regulations made there under or having effect by virtue of the European Communities Act 1972 and any modification or enactment of that Act.
- 3.8.36 The European Communities Act 1972 provides for the incorporation of European Law into domestic law including but not restricted to Regulation (EC) 852/2004 on the hygiene of foodstuffs, Regulation (EC) 853/2004 laying down specific hygiene rules for food of animal origin and Regulation (EC) 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended



## PART 3 – PLACE DIRECTORATE

for human consumption as amended by Regulation (EC) 882/2004, the Official Feed and Food Controls Regulation.

### **Food and Environment Protection Act 1985**

- 3.8.37 To authorise as enforcement officers such members of the Directorate's professional and technical support staff who are deemed to have suitable qualifications in respect of Section 19 of the Food and Environment Protection Act 1985, as amended by the Pesticides (Fees and Enforcement) Act 1989.
- 3.8.38 To issue and sign written instruments of appointment under the Act and regulations.
- 3.8.39 To grant authorised officers the power to sign and serve notices under Section 19 of the Food and Environment Protection Act 1985.

### **Food Safety Act 1990**

- 3.8.40 All powers and duties under the Food Safety Act 1990 including but not restricted to the powers to serve notices under Sections 59, 60, 64, 65, 66, 76, 79 and 84 of the Act relating to the sanitation, drainage and condition of buildings.
- 3.8.41 To register premises covered by regulations made under Section 19.
- 3.8.42 To appoint such members of the Environment Directorate professional and support staff deemed to have suitable qualifications under Section 5(6).
- 3.8.43 To appoint suitable specialists under Section 32(4).
- 3.8.44 All powers and duties under the Dairy Products (Hygiene) Regulations 1995 which will include but not be restricted to the grant and refusal of licences.

### **Health Protection (Local Authority Powers) Regulations 2010**

- 3.8.45 All powers and duties under the Health Protection (Local Authority Powers) Regulations 2010 including but not restricted to the powers under Sections 2 to 11 to deal with children attending school, decontamination of persons and premises and to restrict access to and move dead bodies.

### **Home Safety Act 1961**

- 3.8.46 To undertake functions, duties and powers, as specified under the Home Safety Act 1961.

### **International Health Regulations 2005**

- 3.8.47 To undertake functions, duties and powers, as specified under the International Health Regulations 2005 including but not restricted to the issue of Ship Sanitation Control/Exemption Certificates.
- 3.8.48 To introduce increased charges for the issue of Ship Sanitation control and exemption certificates for coastal vessels.

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- 3.8.49 To discharge the functions, duties and powers to control disease on ships and aircraft as conferred by the Public Health (Ships) Regulations 1979 and Public Health (Aircraft) Regulations 1979 as amended in 2007 to implement the requirements of the International Health Regulations 2005. To include the appointment of a medical officer, medical practitioners and authorised officers to exercise the powers conferred by the regulations.

### **Local Government (Miscellaneous Provisions) Act 1976**

- 3.8.50 All powers and duties under the Local Government (Miscellaneous Provisions) Act 1976 including but not restricted to the powers outlined below.
- 3.8.51 To sign and serve notices under Section 16 requiring information.
- 3.8.52 To sign and serve notices under sections 23 and 25 to deal with dangerous trees and dangerous excavations.
- 3.8.53 To sign and serve notices under section 35 to remove obstructions from private sewers.

### **Local Government (Miscellaneous Provisions) Act 1982**

- 3.8.54 To determine applications for registration under Part VII of the Local Government (Miscellaneous Provisions) Act, 1982 (Skin Piercing Activities) and authorise the Head of Legal & Democratic Services institute legal proceedings for contraventions.
- 3.8.55 To sign and serve notices under Section 9 to deal with buildings that are open to unauthorised entry or are likely to become a danger to public health.

### **Noise Act 1996**

- 3.8.56 All powers and duties adopted under the Noise Act 1996 including but not restricted to the power to serve notice under Section 10 of the Act to seize and remove any equipment which it appears is being or has been used to emit noise in connection with a statutory nuisance.

### **Petroleum (Consolidation) Act 1928**

- 3.8.57 To discharge the Council's Petroleum Licensing functions.
- 3.8.58 To grant, revoke, or refuse licences under the Petroleum (Consolidation) Act 1928.

### **Prevention of Damage by Pests Act 1949**

- 3.8.59 All powers and duties under the Prevention of Damage by Pests Act 1949 to deal with the destruction of rats and mice.

### **Private Water Supply Regulations**

- 3.8.60 All powers and duties under the Private Water Supply Regulations made under the Water Act 2003.

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### **Public Health Acts 1936**

- 3.8.61 All powers and duties under the Public Health Act 1936 including but not restricted to the power to serve notice under Sections 45, 50, 78, 79 and 83 of the Act to deal with defective premises.
- 3.8.62 All powers and duties under the Public Health Act 1961 including but not restricted to the power to serve notice under Sections 17 and 34 of the Act to deal with rubbish and defective drainage.

### **Public Health (Control of Disease) Act as amended by the Health and Social Care Act 2008**

- 3.8.63 All powers and duties under the Public Health (Control of Disease) Act 1984 as amended by the Health and Social Care Act 2008 including but not restricted to the powers under Sections 45M and 76 to deal with the protection of health from the risk of infection and deal with defective premises.
- 3.8.64 To exercise duties under Sections 46 and 48 to arrange for a body to be removed to a mortuary for burial or cremation.
- 3.8.65 In accordance with paragraph 5 of Schedule 4 of the Public Health (Infectious Diseases) Regulations 1988, to require persons to discontinue or refrain from engaging in any occupations connected with food and to take such other step as empowered under the Regulations.
- 3.8.66 To make payments by way of compensation, to persons required to discontinue or refrain from engaging in any occupation connected with food.
- 3.8.67 To authorise an application to the Magistrates Courts under Section 38(i) of the Public Health (Control of Disease) Act 1984.

### **Refuse Disposal (Amenity) Act 1978**

- 3.8.68 All powers and duties under the Refuse Disposal (Amenity) Act including but not restricted to the power to serve notice under Sections 3 and 6 of the Act to deal with abandoned motor vehicles.

### **Site Waste Management Plans Regulations 2008**

- 3.8.69 All powers and duties under the Site Waste Management Plans Regulations 2008.

### **Bye-laws for Hairdressers and Barbers**

- 3.8.70 To determine applications for registration under Section 4 Hampshire Act 1983 and to issue certificates of registration.

### **Appointment of Public Analysts**

- 3.8.71 To appoint Public Analysts under the Food Safety and Agriculture Acts.

**Healthcare Waste Services**

- 3.8.72 To exercise all powers necessary and expedient in relation to the Council's collection of healthcare waste functions (commercial and domestic), including but not limited to the authority to enter into any contracts necessary to give effect to or facilitate this function.

**Sunbed (Regulation) Act 2010**

- 3.8.73 All powers under the Sunbed (Regulation) Act 2010.

**PRIVATE SECTOR HOUSING**

- 3.8.74 To institute proceedings under the Protection from Eviction Act 1977.
- 3.8.75 To institute proceedings under Section 1 Accommodation Agencies Act 1953.
- 3.8.76 To make minor modifications to the approved terms and conditions of financial assistance provided in accordance with the Council's Private Sector Housing Strategy.
- 3.8.77 To consider and determine any application from any person considered to be a special case and who therefore falls outside the Private Sector Housing Strategy.
- 3.8.78 To provide temporary rehousing, subject to a maximum period of four months where financial assistance repair work takes place in accordance with the Council's Private Sector Housing Strategy.
- 3.8.79 To amend the system of prioritising enquiries and applications for financial assistance arising from owner-occupiers and/or private sector tenants to ensure resources are targeted towards those living in the worst housing conditions and in greatest need in relation to the Private Sector Housing Strategy.
- 3.8.80 To determine when a land charge is required on a property to secure the repayment of any financial assistance granted in accordance with the Council's Private Sector Housing Strategy.
- 3.8.81 To approve applications for the provision of financial assistance in accordance with the Council's Private Sector Housing Strategy.
- 3.8.82 To waive financial assistance repayment conditions in relation to the Council's Private Sector Housing Strategy.
- 3.8.83 To make amendments to the Tenants Incentive Scheme eligibility criteria and authorise payments under the scheme if local circumstances require.
- 3.8.84 To authorise Environmental Health Officers and other authorised officers to take all enforcement action, powers and provision as appropriate, under the Housing

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Act 2004, and any subsequent secondary legislation, in accordance with the Council's enforcement policies.

- 3.8.85 After consultation with the Director, Place:
- a. determine and alter as necessary a scale of reasonable charges in respect of enforcement action under s49 of the Housing Act;
  - b. determine and alter as necessary a scale of reasonable fees in respect of the licensing of houses in multiple occupation under s63(3) of the Housing Act; and
  - c. determine and alter as necessary an administrative fee for works carried in default of notices.
- 3.8.86 To seek confirmation from the appropriate national authority of a designation for an Additional Licensing Scheme under section 56 of the Housing Act 2004, following consultation with those persons likely to be affected by any such scheme.
- 3.8.87 To seek confirmation from the appropriate national authority of a designation for a Selective Licensing Scheme under section 80 of the Housing Act.
- 3.8.88 To approve the use of the Enforced Sale Procedure.
- 3.8.89 To determine when a local land charge is required on property to secure the repayment of any grant awarded in accordance with the Council's Private Sector Housing Strategy.
- 3.8.90 To make necessary revision to the Private Sector Enforcement Policy as the need arises, following consultation with the relevant Cabinet Member.
- 3.8.91 To authorise Environmental Health Officers and other authorised officers to take all enforcement action, powers and provision as appropriate, under the Housing Act 2004, and any subsequent secondary legislation, in accordance with the Council's enforcement policies.

### **HMO Licensing**

- 3.8.92 To seek confirmation from the appropriate national authority of a designation for an Additional Licensing Scheme under section 56 of the Housing Act 2004, following consultation with those persons likely to be affected by any such scheme.
- 3.8.93 To seek confirmation from the appropriate national authority of a designation for a Selective Licensing Scheme under section 80 of the Housing Act.
- 3.8.94 To act under all current and future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed,

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operated and controlled by the Head of Service. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.

- 3.8.95 To make any order or decision, grant any licence or take any ancillary action (including setting, varying and removing charges), in relation to:
- Clean Neighbourhood and Environment Act 2005
  - Countryside and Rights of Way Act 2000
  - Crime and Disorder Act 1998 (Section 17)
  - Criminal Justice and Public Order Act 1994
  - Hampshire Act 1983
  - Highways Act 1980
  - Local Government Act 1972 (Section 111)
  - Local Government Act 2000 (Section 2)
  - Local Government (Miscellaneous Provisions) Act 1976
  - Refuse Disposal (Amenity) Act 1978
  - Road Traffic Act 1991
  - Road Traffic Regulation Act 1984 (including orders made under Pedestrian Crossings Regulations and Traffic Signs Regulations and General Directions.
  - Traffic Management Act 2004
- 3.8.96 To serve notice requiring payment for works carried out in default.
- 3.8.97 To execute work in default of compliance of any notice served and to demand the recovery of expenses incurred by the local authority.
- 3.8.98 To affix statutory notices to and to arrange for the removal of, vehicles deemed to be abandoned on public land.
- 3.8.99 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.
- 3.8.100 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation.
- 3.8.101 To serve street litter control notices.
- 3.8.102 To undertake any necessary investigative work for the purposes of enforcement including issue a fixed penalty notices or any other notice on any person or person found littering, flyposting, or committing graffiti pursuant to the Environmental Protection Act 1990, Clean Neighbourhood and Environment Act 2005, the Anti-Social Behaviour Act 2003, the Highways Act 1980 and the Town and Country Planning Act 1990, Blue Badge & Parking Permit fraud.

**BEREAVEMENT SERVICES**

**The Local Authority Cemeteries Order 1977**

3.8.103 To sign a grant (of exclusive right of burial) under article 10 of the Local Authority Cemeteries Order 1977.

**Public Health (Control of Disease) Act 1984 (as amended)**

3.8.104 To carry out all powers and duties conveyed under section 46 of Part III of the Public Health (Control of Disease) Act 1984.

**Burial Act 1883**

3.8.105 To set out rules and regulations in connection with powers and duties under the Burial Act 1853.

3.8.106 To enter into agreements with external bodies for the purposes of maintaining graves, memorials and crematoria.

3.8.107 To inspect burial grounds for the purposes of ensuring that the rules and regulations imposed by the burial authority are adhered to.

3.8.108 To remove unauthorised memorials situated within the burial authority's land, including cemeteries and crematoria.

3.8.109 To keep a register of all burials and cremations.

3.8.110 To authorise the disposal of cremated remains.

**REGISTRATION SERVICES**

**Marriage Act 1994**

3.8.111 To approve the grant, renewal, refusal and revocation of licences to approved premises under the Marriage Act 1994 as the Proper Officer for Registration.

**Civil Partnership Act 2004**

3.8.112 To undertake all powers and functions on behalf of the Council as the Registration Authority under the Civil Partnership Act 2004.

**POWERS OF ENTRY**

3.8.113 To authorise officers of the Regulatory Services Division to exercise powers of entry and other statutory powers including, but not limited to, search and seizure conferred by the legislation referred to below and elsewhere in the Scheme relating to Environmental Health Officers, Environmental Health practitioners, Trading Standards Officers, Fair Trading Officers and other Enforcement Officers. This is deemed to include all secondary legislation and any other superseding enactments relating to the acts below that may from time to time come into force:

Animal Health Act 2002  
Animal Welfare Act 2006

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Anti-social Behaviour Act 2003  
Breeding of Dogs Act 1991  
Clean Air Act 1993  
Clean Neighbourhood and Environment Act 2005  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Environment Act 1995  
Environmental Protection Act 1990  
Food Safety Act 1990  
Food Hygiene (England) Regulations 2006  
Food Standards Act 1999  
Fur Farming (Prohibition) Act 2000  
Health Act 2006  
Health and Safety at Work etc Act 1974  
Health and Social Care Act 2008  
Housing Act 1985  
Housing Act 1996  
Housing Act 2004  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Noise Act 1996  
Prevention of Damage by Pests Act 1949  
Protection of Animals (Amendment) Act 2000  
Public Health (Control of Disease) Act 1984  
Public Health Act 1936  
Public Health Act 1961  
Refuse Disposal (Amenity) Act 1978  
Site Waste Management Plans Regulations 2008  
Sunbed (Regulation) Act 2010

### **COMMUNITY SAFETY & EMERGENCY PLANNING**

- 3.8.114 To undertake any duties in respect of new work in the areas of strategy, community safety and equalities as a result of any revisions to Services and Financial Plans.
- 3.8.115 To authorise legal proceedings or other action to be taken to recover possession of any property or land which is being occupied by travellers, squatters or other unlawful occupants.
- 3.8.116 To authorise the closure of premises under Part 1A Section 11 of the Anti Social Behaviour Act 2003.
- 3.8.117 To undertake all functions and responsibilities associated with Emergency Planning.



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- 3.8.118 To appoint officers for the implementation of the Council's functions under all legislation. This is to include the power to appoint a Chief Inspector of Weights and Measures as prescribed by s72 of the Weights and Measures Act 1985, Environmental Health Officers and other Environmental Health practitioners (including Environmental Health Technicians and Scientific Officers), Trading Standards Officers, Fair Trading Officers and other Enforcement Officers.
- 3.8.119 To execute works by agreement, at the expense of the owner or occupier, in respect of any notice served.
- 3.8.120 To authorise the institution of legal proceedings for the contravention or failure to comply with notices served under the legislation in this Division's section of this Scheme.
- 3.8.121 To exercise any specific or general powers in this Division's section of this Scheme that are delegated to other Officers.
- 3.8.122 To authorise and institute any legal proceedings, the issue of simple cautions and, where authorised by the Head of Legal & Democratic Services, to prosecute or defend any such proceedings, in relation to any powers listed or implied under the delegations to the Head of Regulatory and City Services, Environmental Health Practitioners, the Chief Inspector of Weights & Measures, Trading Standards Officers and Fair Trading Officers.

In addition to the statutory offences referred to in this scheme, to investigate, institute and authorise legal proceedings and where authorised by the Head of Legal and Democratic Services, to prosecute in respect of any statutory conspiracy offences and common law offences to include conspiracy and conspiracy to defraud; and authorisations to officers contained within this scheme shall include powers to investigate any statutory conspiracy offences and common law offences such as conspiracy and conspiracy to defraud.

In respect of all statutory and common law offences referred to within this scheme, where authorised by the Head of Legal and Democratic Services, and where deemed appropriate and reasonable to institute, or authorise legal proceedings and to prosecute where the cause of action arises or the place of offence is outside of Southampton City Council boundaries where such action deliver a benefit to the residents of the City of Southampton.

- 3.8.123 To appoint professional and technical support staff that are deemed to have suitable qualifications, as inspectors under Section 19 Health and Safety at Work etc. Act 1974 and for those officers to exercise all statutory powers relating to enforcement, including but not limited to bringing proceedings.

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3.8.124 To authorise suitable specialists under Section 20 (2)(c)(i) of the Health and Safety at Work etc Act 1974.

3.8.125 To sign and issue written instruments of appointment for all persons appointed under above, except in the case of the appointments of Heads of Service when the Head of Legal & Democratic Services shall sign and issue a written instrument of appointment.

3.8.126 To liaise with the County Council, Portsmouth City Council, PUSH, Solent LEP and other relevant authorities in Hampshire on flood risk management issues.

3.8.127 To represent the Council on flood defence, coastal defence and European Marine Site Management Groups.

### CITY SERVICES

~~3.8.125~~3.8.128 To act under all current and future legislation and Council plans, policies, guidelines and procedures relating to the services and functions managed, operated and controlled by the Heads of Service. This should be taken to include all regulations, orders and guidance subsequently issued by Ministers in relation to such services and functions.

### **Trees**

~~3.8.126~~3.8.129 To determine whether to proceed with an applicant's case, in pursuance of section 68(2) – 68(5) of Anti-Social Behaviour Act 2003 (High Hedges).

~~3.8.127~~3.8.130 To determine whether or not, and to what extent to refund fees pursuant to s68(8) of the Anti-Social Behaviour Act 2003 (High Hedges).

~~3.8.128~~3.8.131 To execute works in default of the remedial work detailed in any remedial notice under the Anti-Social Behaviour Act 2003 (High Hedges).

~~3.8.129~~3.8.132 After consultation with the Chief Financial Officer and the Head of Legal & Democratic Services, to undertake a six-monthly review of the level of the fee to be charged for the service under Part 8 of the Anti-Social Behaviour Act 2003 and to vary the fee level as necessary to ensure that the costs of providing the service are recovered in the financial year (High Hedges).

~~3.8.130~~3.8.133 To authorise an appropriate officer to enter land for any purpose pursuant to Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges).

~~3.8.131~~3.8.134 To approve modifications to the Southampton's Tree Operational Risk Management System (STORMS) following consultation with the Head of Legal &

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Democratic Services, the Council's Risk and Insurance Manager and the Council's Health and Safety Manager to ensure the system remains fully effective.

~~3.8.1323~~3.8.135 To serve a notice on any owner of land on which a tree is situated that is in such a condition that there is imminent danger of its causing damage to persons or property pursuant to section 23 of the Local Government (Miscellaneous Provisions) Act 1976, after consultation with the Head of Legal & Democratic Services.

~~3.8.1333~~3.8.136 To authorise any officer to enter land for the purposes of assessing the condition of tree or trees on another land pursuant to section 24 of the Local Government (Miscellaneous Provisions) Act 1976.

~~3.8.1343~~3.8.137 Power to make, modify or vary, revoke and confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990 except where valid objections are received.

~~3.8.1353~~3.8.138 To determine applications for works to trees that are subject to protection by Tree Preservation Order and to impose such conditions on any consent that s/he deems appropriate.

~~3.8.1363~~3.8.139 To serve a notice to plant replacement trees, where they are a requirement of the land owner's duty to replace under Section 206 of the Town and Country Planning Act 1990 or where replacements have been conditioned under a tree works decision notice.

~~3.8.1373~~3.8.140 To execute works in default of non-compliance with a notice to replant trees and to recover all reasonable costs from the landowner.

### **Street Cleansing, Allotments & Green Spaces**

~~3.8.1383~~3.8.141 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.

~~3.8.1393~~3.8.142 To serve street litter control notices.

~~3.8.1403~~3.8.143 Power to obtain information under Section 330 of the Town and Country Planning Act 1990 and Section 16 Local Government (Miscellaneous Provisions) Act 1976 about interests in land.

~~3.8.1413~~3.8.144 To undertake any necessary investigative work for the purposes of enforcement including issue a fixed penalty notices or any other notice on any

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person or person found littering, flyposting, or committing graffiti pursuant to the Environmental Protection Act 1990, Clean Neighbourhood and Environment Act 2005, the Anti-Social Behaviour Act 2003, the Highways Act 1980 and the Town and Country Planning Act 1990.

[3.8.1423.8.145](#) To agree to waive charges for allotments.

[3.8.1433.8.146](#) To decide and accept the most suitable tender for mobile catering services in the parks and enter into a contract with that operator.

[3.8.1443.8.147](#) To make applications under Section 38 of the Commons Act 2006.

[3.8.1453.8.148](#) Following consultation with the relevant Cabinet Member and the Director of Corporate Services, to agree for the City Council to act as the accountable body on behalf of formally constituted “friends” groups, resident, tenant or community groups, or sports clubs applying for external grant funding of less than £125,000 to improve the city’s open spaces and associated assets and infrastructure. This responsibility may include procuring supplies, goods or services on behalf of the grant recipient through identifying the most economically advantageous quote or tender, certifying receipt of goods and services, agreeing practical completion of site works, authorising payment of invoices, controlling and monitoring project expenditure, and keeping accurate and auditable financial records for the purpose of reclaiming project expenditure from the external grant funding body.

[3.8.1463.8.149](#) To commence impoundment procedures when a horse is deemed to pose an acceptable risk to public safety, private property, adversely affect public rights to recreation, or is significantly damaging the environment.

### **Waste & Resources Management**

[3.8.1473.8.150](#) All Waste and Fleet Transport services functions exercisable by the Council in its capacity as a local authority.

[3.8.1483.8.151](#) All powers necessary and expedient in relation to the Council’s statutory duties to collect and dispose of municipal waste, including but not limited to the authority to enter into contracts necessary to give effect to or facilitate this function.

[3.8.1493.8.152](#) To complete and submit expressions of interest for waste and sustainable resource management, funding or initiatives to any UK or EU funding organisations.

[3.8.1503.8.153](#) To liaise with Hampshire County Council, Portsmouth City Council and other waste collection authorities in Hampshire on all strategic waste issues,

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ensuring appropriate consultation with colleagues on non-specific waste issues such as spatial planning.

~~3.8.1513~~3.8.154 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to the Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation following consultation with the Head of Legal & Democratic Services.

~~3.8.1523~~3.8.155 To determine the charges for the collection of trade refuse, skip hire and MOTs.

~~3.8.1533~~3.8.156 To set or vary charges for residents using the special bulky domestic refuse collection service waste receptacles, including bulk bin containers, where these are not provided free in accordance with Council policy, following consultation with the appropriate Cabinet Member and the spokesperson for each opposition party.

~~3.8.1543~~3.8.157 To determine charges for the provision of a specified type of bulk bin container as specifically requested for by customers.

~~3.8.1553~~3.8.158 To require the production of a trade waste transfer document and the power to issue a fixed penalty for failing to so provide pursuant to section 34A of the Clean Neighbourhood and Environment Act 2005.

~~3.8.1563~~3.8.159 To undertake or instigate any necessary investigative work for the purposes of enforcement including issuing of fixed penalty notices or any other notice on any person or persons found:

- not using the designated waste receptacle for the purpose of depositing waste prior to collection;
- not presenting the waste receptacle for collection on the designated day;
- not removing the waste receptacle (wheeled bin) from the public highway following collection pursuant to the Environmental Protection Act 1990.

### **Fleet Services**

~~3.8.1573~~3.8.160 To take any action in relation to, or associated with the Council's LGV Operators Licences and road traffic legislation.

~~3.8.1583~~3.8.161 To procure and maintain the Council's vehicle fleet in accordance with the Council's standing orders and the relevant regulatory frameworks.

### **Enviro-Crime**

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~~3.8.1593.8.162~~ 3.8.162 Exercise the functions, powers and duties of the Council in relation to environmental crime, nuisance or annoyance including but not limited to the terms of the following legislation and any subsequent or similar legislation or replacing or expanding legislation:

Anti-social Behaviour Act 2003

Clean Neighbourhood and Environment Act 2005

Dogs (Fouling of Land) Act 1996

Environment Act 1995

Environmental Protection Act 1990

Environmental Protection (Duty Of Care) Regulations 1991

Local Government (Miscellaneous Provisions) Acts 1976 and 1982

**3.9 BUILDING CONTROL PARTNERSHIP MANAGER**

3.9.1 To represent the Council and recommend decisions on building control operational issues at the Building Control Governing Board set up to manage the Partnership between Southampton and Eastleigh.

3.9.2 Discharge, save for any reservations shown below, the powers set out in the paragraph following the reservations.

The powers referred to above shall not include the following:

- a. powers where an individual officer is required by law to hold a relevant qualification and that officer does not hold that qualification;
- b. powers which fall outside the individual's actual authority as determined by his/her post or are not covered by an instruction by management; or
- c. any other situation where an individual officer is prevented, for whatever proper reason, from exercising that power.

The powers that may be exercised include, without prejudice to the generality of the following, the power to serve (which term includes signature and issue) notices and the power to exercise any statutory (or common law) power conferred by the legislation referred to below, including any subordinate legislation, ie Regulations, Orders and Byelaws etc, made thereunder. Such powers will also extend to legislation (primary and subordinate etc.) not referred to below, always provided that the officer is not excluded by virtue of any reservation set out in the preceding paragraph. All of these powers are also exercisable by the Head of Culture and Planning.

**Building Act 1984**

3.9.3 To serve notice giving approval / rejection in respect of Building Regulations plans (Section 16).

3.9.4 To serve notice giving approval / rejection in respect of building over sewers (Section 18).

3.9.5 To serve notice giving approval of buildings with short-lived materials and get appropriate conditions or to reject the plans (Section 19).

3.9.6 To reject plans for buildings with unsatisfactory drainage (Section 21).

3.9.7 To serve notice re lapse of deposit of plans (Section 32).

3.9.8 To carry out tests on materials and components etc for conformity with Building Regulations (Section 33).

3.9.9 To serve notice to alter / remove work etc (Section 36).

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- 3.9.10 To serve notice to make satisfactory provision for drainage (Section 59).
- 3.9.11 To serve notice regarding entrances, exits, etc (Section 71).
- 3.9.12 To serve notice regarding means of escape in case of fire (Section 72).
- 3.9.13 To serve a notice regarding the raising of chimneys (Section 73).
- 3.9.14 To take any action necessary in respect of dangerous structures (Sections 77 & 78).
- 3.9.15 To serve notice re ruinous dilapidated and neglected sites (Section 79).
- 3.9.16 To accept notices of intention to demolish (Section 80).
- 3.9.17 To serve notice requiring shoring and weatherproofing to adjoin buildings (Section 81).
- 3.9.18 To enter buildings to ascertain if a breach of relevant legislation has occurred (Section 95).

### **Building Regulations**

- 3.9.19 To serve notice to require builders to open up works (Reg. 14).

### **Local Government Miscellaneous Provisions Act 1982**

- 3.9.20 To serve notice and/or carry out works of boarding up of dangerous buildings (Section 29).

### **Other Relevant Powers**

- 3.9.21 To refer questions, as to whether or not certain work complies with the Building Regulations to the appropriate Government department.
- 3.9.22 To deal with “type” relaxations to the Building Regulations instigated by the appropriate Government department.
- 3.9.23 To authorise prosecution for non-compliance with notices served and non-compliance of the Building Regulations.
- 3.9.24 To deal with Partnership applications on behalf of other local authorities in accordance with the nationally agreed Local Authority Building Control Partnership Scheme.
- 3.9.25 To deal with System Approvals in accordance with the nationally agreed scheme.
- 3.9.26 To approve or refuse plans deposited under the Hampshire Act 1980 for the provision of a satisfactory means of escape for fire brigade vehicles and personnel, for precautions, against fire and cubic content of buildings and special precautions for underground car parks.



**Sustainable and Secure Buildings Act 2004**

3.9.27 Apply and enforce regulations in relation to sustainability and security issues.

**Safety at Sports Grounds Act 1975**

3.9.28 To enter premises and issue safety certificates for sports stadia.

**Disability Discrimination Act 1995**

3.9.29 To give advice on discrimination issues including surveying the built environment as required.

**Licensing Act 2003**

3.9.30 To enter premises for the purposes of consulting and advising on the licensing objectives and compliance with the Act.

**Local Government (Miscellaneous Provisions) Act 1982**

3.9.31 To act as authorised officers for the purposes of gaining entry for inspection of premises under the Local Government (Miscellaneous Provisions) Act 1982.

3.9.32 To make any order, notice or decision, grant any licence, make any charge or take any enforcement action considered necessary or expedient pursuant to Clean Neighbourhood and Environment Act 2005 and all associated secondary legislation, following consultation with the Head of Legal & Democratic Services.

**4.1 DIRECTOR OF PEOPLE**

- 4.1.1 All Children's Services functions exercisable by the Council in its capacity as a local authority.
- 4.1.2 All functions relating to children contained within the Local Authority Social Services Act 1970.
- 4.1.3 Functions under Sections 23C to 24D of the Children Act 1989.
- 4.1.4 Functions under Sections 10 to 17 inclusive and 20(9) of the Children Act 2004. In particular, the Director of People shall have the authority to discharge the responsibilities contained within Section 18 Children Act 2004 as well as any secondary and ancillary legislation (including but not limited to the Safeguarding Vulnerable Groups Act 2006).
- 4.1.5 Any function exercised on behalf of an NHS body relating to children contained within Section 31 of the Health Act 1999.
- 4.1.6 To act in any matter where immediate action is necessary to safeguard any person or to materially safeguard the well being of any person or to preserve property.
- 4.1.7 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline at any school in accordance with Section 155 of the Education Act 1996.
- 4.1.8 To serve notices under Section 117 of the Education Act 1996 to suspend the financial delegation of any school.
- 4.1.9 To refer disputes with the governing bodies of schools to the Secretary of State under Section 495 of the Education Act 1996 and to apply to the Secretary of State for him to use his powers to prevent the unreasonable exercise of functions under Section 496 and to use his powers under Section 497 (General Default Powers) and 498 (Appointment of Governors) of the 1996 Act.
- 4.1.10 To approve grants to voluntary organisations provided that such approval be limited to £25,000 per item and overall to no more than 20% of the total amount available for grants to voluntary organisations after consultation with the Cabinet Member.
- 4.1.11 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Chief Financial Officer.
- 4.1.12 Following consultation with the Head of Legal & Democratic Services, to take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any

## PART 4 – PEOPLE DIRECTORATE

Magistrate, Court or other Tribunal on behalf of the Council in discharge of the Council's Children's Services functions arising under any law or Act.

- 4.1.13 To have discretion to reduce or waive any charge in any particular case of exceptional hardship.
- 4.1.14 To appoint such professional and technical support staff for the supply of children's activities as are deemed to be acceptable under the Children Act 1989 and to sign and issue written instruments of appointment.
- 4.1.15 To appoint annually on 1<sup>st</sup> April the Chair of the Local Safeguarding Children's Board.
- 4.1.16 Following consultation with the Cabinet Member to remove providers of nursery education who are failing to meet the national Code of Practice, or local conditions of funding, from the Directory of Registered Providers and where conditions of funding have been breached and cannot otherwise be remedied to the satisfaction of the Council, to seek the recovery of all or part of any nursery education grant paid to them.
- 4.1.17 Following consultation with the Cabinet Member and Head of Legal & Democratic Services, to develop and agree an appropriate process for any decisions to remove nursery education providers from the Directory of Registered Providers with the Southampton Early Years Development and Childcare Partnership, including a right to appeal the decision to an Appeals Panel comprising of the relevant Service Manager and an independent representative for providers (or their respective nominees). All appeals will be conducted in accordance with the agreed procedure.
- 4.1.18 To oversee arrangements for early years settings on the Directory of Registered Providers in respect of eligible pre-school children receiving their entitlement to early years education and for the annual review of the funding rate that will apply to each provider under the authority's early years funding formula.
- 4.1.19 To issue Penalty Notices for non attendance at all Southampton Schools in accordance with the Education (Penalty Notices) (England) Regulations 2004.
- 4.1.20 To exercise all powers and duties granted or imposed under the Apprenticeship, Skills, Children and Learning Act 2009 and to do anything necessary to commission services as provided for in accordance with the Council's 16-19 obligations.
- 4.1.21 Following consultation with the Head of Legal & Democratic Services and Chief Financial Officer, to submit bids for or tenders involving funding or assistance from central government, the European Commission or from any other source (direct or indirect to the Council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take

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any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to SRB and lottery bids, but also to any new schemes as yet not in place, and is thus framed broadly and should be applied in the same way).

- 4.1.22 Following consultation with the Cabinet Member where possible, to sign-off and return responses to formal and informal consultative proposals from Government Departments on matters of professional judgement and/or policy.
- 4.1.23 To represent the interests of Southampton City Council through attendance at the Sub Regional Group on post 16 commissioning and to take all decisions required pursuant to membership on the group in relation to the exercise of statutory duties for the commissioning of learning and skills for children and young people.
- 4.1.24 To write off debt or waive future charges in respect of care provision where it is felt that an individual would be at risk if the debt were pursued or they chose to withdraw from care on financial grounds. A written record of these decisions setting out the reasons for the write-off or waiving of charges should be kept and a copy provided to the Accounts Receivable department. Such reductions or waiving of charges would only be for the minimum period that such risks exist.

### **School Term and Holiday Dates**

- 4.1.25 Following consultation with the Cabinet Member, schools and governing bodies, to determine school term and holiday dates for future academic years.
- 4.1.26 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Part III of the National Health Service and Community Care Act 1990 and any Regulations thereunder.
- 4.1.27 To approve expenditure on the following matters:
  - a. contributions to the funds of voluntary organisations providing services for the elderly and/or the disabled, in accordance with the approved policy, including initial grants to newly formed clubs and centres, annual grants and contributions towards running costs;
  - b. contributions towards the running costs of new meals-on-wheels schemes and luncheon clubs and variations in costs of existing schemes.
- 4.1.28 To accept guardianship applications and subsequent renewals such action to be reported to the appropriate Cabinet Member and to determine subsequent applications for discharge by the Authority.
- 4.1.29 To act as receiver under legislation relating to mental health.

## PART 4 – PEOPLE DIRECTORATATE

- 4.1.30 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 4.1.31 For the purposes of Section 114 of the Mental Health Act 1983, to issue approvals on behalf of the Council in respect of mental health social workers.
- 4.1.32 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Chief Financial Officer.
- 4.1.33 To take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any Magistrate, Court or other Tribunal on behalf of the Council in discharge of the Council's Adult Social Care functions arising under any law or Act.
- 4.1.34 To write off debt or waive future charges in respect of care provision where it is felt that an individual would be at risk if the debt were pursued or they chose to withdraw from care on financial grounds. A written record of these decisions setting out the reasons for the write-off or waiving of charges should be kept and a copy provided to the Accounts Receivable department. Such reductions or waiving of charges would only be for the minimum period that such risks exist.
- 4.1.35 To approve the disposal of assets belonging to deceased residents to persons entitled to them after payment of proper claims on account of funeral expenses or sums due to the Council.
- 4.1.36 To authorise the removal of parts of the body of deceased residents in accordance with the wish expressed by the resident during lifetime (where the Council is lawfully in possession of the body).
- 4.1.37 To set the fees and charges associated with the Southampton Shared Lives Scheme (formally known as the Adult Placement Scheme).
- 4.1.38 To set the fees and charges associated with the Southampton Adult Placement Scheme.
- 4.1.39 To enter into partnership arrangements and approve future variations to the arrangements for the agreement under Section 75 of the NHS Act 2006 to enable the Council to act as host of the pooled fund and; lead the commissioning of services for people with learning disabilities and their carers, following consultation with the Chief Financial Officer or Head of Legal & Democratic Services and the relevant Cabinet Member and; establish a Partnership Board to manage the partnership arrangements and to agree the constitution and terms of reference for the Board, following consultation with the Head of Legal & Democratic Services and; make arrangements

## PART 4 – PEOPLE DIRECTORATE

and carry out all such ancillary acts as are necessary for the transfer of any properties from the NHS to the City Council in order to achieve the objectives of the Partnership arrangement following consultation with the Director of Corporate Services

- 4.1.40 To approve changes to the Health and Wellbeing Strategic Plan to ensure that it is kept updated.
- 4.1.41 To implement the developments agreed regarding the Council's own home care services, following consultation with the relevant Cabinet Member and the Head of Legal & Democratic Services.
- 4.1.42 To make modifications / amendments to the approved standard conditions of grant aid.
- 4.1.43 To change the decision-making body and managerial responsibilities for any property in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees, following consultation with the Chief Financial Officer and Head of Property.
- 4.1.44 To take any decision and/or develop approaches that commit Council resources that are within budget and policy to deliver better outcomes for local people to meet the requirements of the Health and Social Care Act and subsequent legislation, after consultation with the Cabinet Member for Adult Social Care and Health.
- 4.1.45 To take any consequent decision regarding the development and implementation of a specific spending plan for the Common Assessment Framework project after consultation with the Cabinet Member for Adult Social Care and Health and the Chief Financial Officer.
- 4.1.46 To enter into partnership arrangements under Section 75 NHS Act 2006 to deliver integrated Mental Health Services and; approve future variations to the agreement; and establish and oversee a Partnership Board to manage the Partnership arrangements and; agree the constitution and terms of reference for that Board following consultation with the relevant Cabinet Member.
- 4.1.47 To enter into partnership arrangements under section 75 of the NHS Act 2006 for the provision of services for adults with learning disabilities and their carers and approve future variations to the arrangements and; establish a Partnership Board to monitor and assist in the management of the partnership Arrangements and; agree the constitution and terms of reference for the Partnership Board after consultation with the relevant Cabinet Member.

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- 4.1.48 To update the Southampton Joint Strategic Needs Assessment 2011 – 2014 to inform future planning and commissioning of services to improve health outcomes and reduce health inequalities as new data and information becomes available in agreement with the Director of Public Health.
- 4.1.49 To enter into partnership arrangements under section 75 of the NHS Act 2006 for the provision of LBHU services and; establish a Partnership Board to oversee and manage the LBHU Services and; agree the Constitution and Terms of Reference of the Partnership Board.
- 4.1.50 After consultation with the Chief Financial Officer and the Head of Legal & Democratic Services, to extend, renegotiate, or enter into any further agreements with [NHSSC-Southampton City Clinical Commissioning Group \(SCCCG\)](#) in relation to any funding streams allocated to [SCCCGNHSSC](#), or successor body, with the specific purpose of being transferred to [or from](#) the Local Authority under a S256 [or S76 of the NHS Act 2006](#) arrangement and add any such sums to the budget.
- 4.1.51 Following consultation with the Cabinet Member where possible, to sign-off and return responses to formal and informal consultative proposals from Government Departments on matters of professional judgement and/or policy.
- 4.1.52 All Adult Social Care's functions exercisable by the Council in its capacity as a local authority.
- 4.1.53 To approve, amend or terminate contracts with providers whose services are commissioned by Southampton City Council or jointly with partners as part of the Integrated Commissioning Unit, after consultation with the Head of Legal & Democratic Services, Chief Financial Officer and the relevant Cabinet Member.
- ~~———— To authorise payments in accordance with the conditions set out under Section 76 of the National Health Service Act 2006 after consultation with the relevant Cabinet Member.~~

### Care Act 2014

- 4.1.54 To discharge the Council's functions for care and support in accordance with the Care Act 2014 and any regulations thereunder.
- 4.1.55 To enter into any agreements including partnership arrangements to authorise a person or organisation to discharge the Council's functions under the Care Act 2014, pursuant to section 79 Care Act 2014

**4.2 DIRECTOR OF PUBLIC HEALTH**

- 4.2.1 To undertake overall responsibility for all of the local authority's duties to take steps to improve public health and to provide officers and elected members with appropriate advice, based on a patterns of local health need of what works and potential returns on public health investment.
- 4.2.2 To undertake any of the Secretary of State's public health protection or health improvement functions delegated to local authorities, either by arrangement or under regulations, – including services mandated by regulations made under section 6C of the NHS Act 2006.
- 4.2.3 To plan for, and respond to, emergencies that present a risk to public health, after consultation with the council's emergency planning officer where appropriate.
- 4.2.4 To undertake local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.
- 4.2.5 To be responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, including making representations about licensing applications under sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the Health and Social Care 2012.
- 4.2.6 To be responsible for providing Healthy Start vitamins at any maternity or child health clinic commissioned by the council, in accordance with the Healthy Start and Welfare Food Regulations 2005 as amended by the Health and Social Care Act 2012.
- 4.2.7 To produce and update as necessary the Southampton Joint Strategic Needs Assessment after consultation with Southampton City Clinical Commissioning Group.
- 4.2.8 To lead on and co-ordinate the development, production, publication and updating of the Southampton Joint Health and Wellbeing Strategy after consultation with Southampton City Clinical Commissioning Group.
- 4.2.9 To develop and implement a system for collecting and analysis data to deliver the Public Health Outcomes Framework.
- 4.2.10 To produce the Director of Public Health's annual report.
- 4.2.11 To provide public health advice to NHS commissioners to help secure:
  - a. Commissioning strategies that meet the needs of vulnerable groups
  - b. The development of evidence-based care pathways and service specifications
  - c. Evidence-based prioritisation policies
  - d. Health needs audits and health equity audits and health impact assessments



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- 4.2.12 To ensure delivery of the National Child Measurement Programme.
- 4.2.13 To secure the delivery of the NHS Health Check assessment.
- 4.2.14 To ensure appropriate access to sexual health services.
- 4.2.15 To ensure appropriate clinical governance arrangements are in place in respect of any clinical services commissioned, including sexual health and drug and alcohol services.
- 4.2.16 To maintain a particular focus on ensuring disadvantaged groups receive the attention they need, with the aim of reducing health inequalities

**4.3 HEAD OF CHILDREN AND FAMILIES SERVICE**

4.3.1 In relation to the Children Act 1989:

- a. to act on behalf of the Council in discharging its functions under the Children Act 1989 and any Regulations thereunder;
- b. to institute any proceedings in any court or tribunal for an order under the Children Act 1989 where it is considered appropriate to do so, and to appear on behalf of the Council in any of the following court proceedings:
  - i. Application for any order under Part IV of the Children Act 1989 (Protection of Children) where it is not practicable to arrange legal representation in the time available;
  - ii. Application for an order placing a child in secure accommodation under Section 25 of the Children Act 1989 where the application is not contested;
  - iii. Application for a witness summons where the application is not contested;
  - iv. Application for adjournment of any proceedings where the application is not contested;
  - v. Application for discharge or variation of a care order or supervision order under Section 39 of the Children Act 1989, where such application is not contested;
  - vi. Any other proceedings thought necessary to protect the welfare of a child where it is not practicable to arrange legal representation in the time available.
- c. To pay allowances in respect of children being looked after by the Council in accordance with the scheme approved by the Council for the time being.

4.3.2 To give consents on behalf of the Council where necessary in the interests of children and young persons of whom the Council is in loco parentis.

4.3.3 To approve levels of and variations in fees where the Council has accepted responsibility for children, young persons, or adults attending establishments not maintained or assisted by the Council and alterations in charges for the maintenance of such residents.

4.3.4 To take such actions and decisions as may be required on behalf of the Council acting as an adoption agency.

4.3.5 To approve the reimbursement of or a contribution towards the legal expenses of prospective adopters reasonably incurred during the course of applications to adopt

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children in the care of the Council, where the Director of People considers that the prospective adopter's application is in the best interests of the child.

- 4.3.6 To reduce or waive the charge of providing a home study report for prospective inter-country adopters.
- 4.3.7 To exercise the functions of the Council in relation to individual children boarded out under the Children Act 1989 and other Regulations.
- 4.3.8 To take such actions and decisions as are necessary to discharge the Council's duties to promote the welfare of individual children and young persons in the Council's care including:-
  - a. giving consent for medical, dental and other treatment, for the issue of passports; and for such other purposes as may be required from time to time;
  - b. appointing persons to review cases where children are kept in secure accommodation;
  - c. appointing an independent person to be a visitor to a particular child in the circumstances set out in paragraph 17 of Schedule 2 to the Children Act 1989 in accordance with the Definition of Independent Visitors (Children) Regulations 1991.
- 4.3.9 To have discretion to reduce or waive any charge in any particular case of exceptional hardship.
- 4.3.10 To exercise all the powers and duties exercisable by the Council relating to the enforcement of legislation and byelaws (which for the avoidance of doubt also includes regulations, orders etc) relating to Children's Services, including the licensing of the employment of children.
- 4.3.11 Following consultation with the Cabinet Member where possible, to sign-off and return responses to formal and informal consultative proposals from Government Departments on matters of professional judgement and/or policy.

### **Boarding Policy**

- 4.3.12 To administer boarding policies.
- 4.3.13 To provide assistance with appropriate incidental expenses in cases where the standard parental contribution towards boarding fees is nil.
- 4.3.14 Where appropriate, to deal with the requirements of particular cases outside the limitations of the policies outlined in 4.3.12 and 4.3.13.
- 4.3.15 All functions relating to children contained within the Local Authority Social Services Act 1970.

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- 4.3.16 To appoint such professional and technical support staff for the supply of children's activities as are deemed to be acceptable under the Children Act 1989 and to sign and issue written instruments of appointment.
- 4.3.17 Any function exercised on behalf of an NHS body relating to children contained within section 31 of the Health Act 1999.
- 4.3.18 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline at any school in accordance with section 155 of the Education Act 1996.
- 4.3.19 To approve grants to voluntary organisations provided that such approval be limited to £25,000 per item and overall to no more than 20% of the total amount available for grants to voluntary organisations, after consultation with the Cabinet Member.
- 4.3.20 All children's services functions exercisable by the Council in its capacity as a local authority.
- 4.3.21 Functions under sections 10 to 17 inclusive and 20(9) of the Children Act 2004.
- 4.3.22 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Chief Financial Officer.
- 4.3.23 Following consultation with the Local Education Authority Governors' Appointment Panel, to nominate LEA governors.
- 4.3.24 To approve nominations of LEA representatives to serve on College Governing Bodies.
- 4.3.25 Following consultation with the appropriate Governing Body and acting on behalf of the Director of People, to short-list candidates for interview for appointment as headteacher.
- 4.3.26 To approve individual exceptions to the general principle of including the names and addresses of all governors in written information for parents.
- 4.3.27 To administer within budgetary provision any scheme of aid to pupils with outstanding ability in sport.
- 4.3.28 To write off bad debts (up to a limit of £5,000) owed to the Council, linked with, attributed to or associated with the discharge of the Council's Children's Services functions.
- 4.3.29 To exercise (following consultation with the Chief Financial Officer where affecting the level of Council Tax) all the powers and duties exercisable by the Council under the legislation (which for the avoidance of doubt also includes regulations, orders, etc.)

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Mandatory Awards	Discretionary Major and Minor Awards
Special Discretionary Awards	Discretionary European Fees Only Awards
Study Awards	Disabled Students Allowances

reserving only to the Council those functions precluded from delegation by legislation and referring to the relevant Appeals Panel any appeal that cannot be resolved.

- 4.3.30 To make modifications / amendments to the approved standard conditions of grant aid.
- 4.3.31 Following consultation with the relevant Cabinet Member , the Head of Legal & Democratic Services and the Chief Financial Officer to amend the terms of reference and membership set for the Schools' Forum and Admissions Forum so far as may be necessary to give effect to any new Act, Regulation or Code of Practice.
- 4.3.32 To act on behalf of the Council in any matter where immediate action is necessary to safeguard any person or to materially safeguard the well being of any person or to preserve property.
- 4.3.33 To issue penalty notices for non attendance at all Southampton schools in accordance with the Education (Penalty Notices) (England) Regulations 2004.
- 4.3.34 Following consultation with the Head of Legal & Democratic Services, to take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any Magistrate, Court or other Tribunal on behalf of the Council in discharge of the Council's Children's Services functions arising under any law or Act.
- 4.3.35 To provide financial assistance to community organisations hiring education facilities in the City in order to encourage dual use.
- 4.3.36 To receive the instrument of Government from Governing Bodies.

### **Youth Bands and Orchestras**

- 4.3.37 Following consultation with the Chief Financial Officer and Head of Legal & Democratic Services, to approve all staffing and insurance arrangements for the visits of Youth Bands Orchestras and Choirs.

### **Music Service**

- 4.3.38 In exceptional cases, to make available awards to pupils with musical talent who do not attend Southampton schools.
- 4.3.39 To approve, for music or performing arts courses, any college a Discretionary Award applicant wishes to attend.

### **Clothing Allowances**

- 4.3.40 To make suitable adjustments annually to the maximum grant available for uniform / dress allowances to pupils of secondary school age to take account of inflation.
- 4.3.41 Where a family is in receipt of income support to pay for all initial replacement clothing and incidental expenses while the child is at a boarding school, as long as the family's financial circumstances make them eligible.
- 4.3.42 To make the maximum clothing grant available to children at boarding schools with expensive clothing lists where families have a very low income, although not qualifying for Income Support.
- Note: Delegations 4.3.40 to 4.3.41 may be devolved to schools as part of their budget share following consultation between the Director of People, the Head of Children and Families Services and the Chief Financial Officer.
- 4.3.43 To make such directions and to take such other steps as necessary or expedient to prevent a breakdown, or continuing breakdown, of discipline at any school in accordance with Section 155 of the Education Act 1996.
- 4.3.44 To serve notices under Section 117 of the Education Act 1996 to suspend the financial delegation of any school.
- 4.3.45 To refer disputes with the governing bodies of schools to the Secretary of State under Section 495 of the Education Act 1996 and to apply to the Secretary of State for him to use his powers to prevent the unreasonable exercise of functions under Section 496 and to use his powers under Section 497 (General Default Powers) and 498 (Appointment of Governors) of the 1996 Act.
- 4.3.46 To permit playgroups to use any surplus school furniture or equipment as appropriate.
- 4.3.47 Following consultation with the Chief Financial Officer and Head of Property, Procurement and Health & Safety, to change the decision-making body and managerial responsibilities for any property in line with any amendments to the terms of reference for Executive decision-making bodies, Committees and Sub-Committees.
- 4.3.48 To review and amend the scale of grants for extra curricular activities to pupils at non-maintained schools as necessary.

### **Swimming**

- 4.3.49 To approve educational arrangements with regard to swimming.

**School Term and Holiday Dates**

4.3.50 Following consultation with the Cabinet Member, schools and governing bodies, to determine school term and holiday dates for future academic years.

**School Transport and Travelling Expenses**

- 4.3.51 To appoint supervisors on buses where this is considered to be necessary to ensure the safety of children who are legally entitled to be transported to and from school.
- 4.3.52 To determine when supervision is necessary in motorcars and to arrange accordingly for pupils attending day schools.
- 4.3.53 To arrange with parents or private motorists for the transport of children who qualify for transport to ordinary or special schools and to pay mileage rates equivalent to those paid for cars employed by the Ambulance Car Service, and to meet where appropriate any additional insurance premium which may be payable.
- 4.3.54 To make payments to parents on a mileage rate in excess of the Ambulance Car rates where it is not possible to provide transport at a lower total cost from transport contractors.
- 4.3.55 To apply distance limits to obviate the division of groups of children living in specific roads where it is considered to be desirable.
- 4.3.56 To arrange transport where this is justified by exceptional family circumstances or on medical grounds.
- 4.3.57 To accept a route other than the shortest available in cases where the shortest route could constitute a temporary danger to a pupil.
- 4.3.58 To vary the charge for privilege transport from time to time.
- 4.3.59 To approve additional payments in exceptional cases in respect of travel expenses incurred by pupils with special educational needs attending boarding schools.
- 4.3.60 To approve the payment of travelling expenses to parents of disabled children at residential special schools in cases of hardship where the frequency of visits per term for essential social reasons is in excess of the number of normally permitted visits.
- 4.3.61 To act in all cases relating to the placement of, or the provision of equipment for disabled children, with professional advice as to the appropriate form of action to be taken.

**General**

4.3.62 Following consultation with the Cabinet Member to remove providers of nursery education who are failing to meet the national Code of Practice, or local conditions of

## PART 4 – PEOPLE DIRECTORATE

funding, from the Directory of Registered Providers and where conditions of funding have been breached and cannot otherwise be remedied to the satisfaction of the Council, to seek the recovery of all or part of any nursery education grant paid to them.

- 4.3.63 Following consultation with the Cabinet Member and Head of Legal & Democratic Services, to develop and agree an appropriate process for any decisions to remove nursery education providers from the Directory of Registered Providers with the Southampton Early Years Development and Childcare Partnership, including a right to appeal the decision to an Appeals Panel comprising the Chair of the Early Years and Development Childcare Partnership, the Early Years and Development Childcare Manager and an independent representative for providers (or their respective nominees). All appeals will be conducted in accordance with the agreed procedure.
- 4.3.64 To oversee arrangements for early years settings on the Directory of Registered Providers in respect of eligible pre-school children receiving their entitlement to early years education and for the annual review of the funding rate that will apply to each provider under the authority's early years funding formula.
- 4.3.65 To approve the data and inflation rates used in calculating school budget shares including numbers of special unit places

### **INFRASTRUCTURE**

#### **School Organisation and Administration**

- 4.3.66 To approve a catchment area, within the limits imposed by the Secretary of State from time to time, for each school on the Council's approved list, for travelling expenses to be paid within that area or adjacent to it in the light of school organisation changes.
- 4.3.67 Following consultation with the appropriate Governing Body, to raise or lower the admission limit for a school on a temporary basis.
- 4.3.68 To agree, following consultation with the Head of Legal & Democratic Services, the wording, form and content of any Statutory Notice for School Organisational Changes and the arrangements for their publication.

#### **Premises and Equipment**

- 4.3.69 Following consultation with the Head of Legal & Democratic Services, to issue regulations relating to safety matters in educational establishments as the need arises and to secure appropriate monthly arrangements for the review of such safety matters.



4.3.70 Following consultation with the Head of Legal & Democratic Services and Chief Financial Officer, to submit bids for or tenders involving funding or assistance from central government, the European Commission or from any other source (direct or indirect to the council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to SRB and lottery bids, but also to any new schemes as yet not in place, and is thus framed broadly and should apply in the same way).

**School Meals**

- 4.3.71 To decline requests for the provision of school meals in school holidays.
- 4.3.72 To approve the granting of a free meal at a further education establishment to certain students enrolled on courses for the unemployed sponsored by the Council, in accordance with the current eligibility for free school meals.
- 4.3.73 To make suitable adjustments to the charge for school milk as necessary to ensure that no expense falls on the Council.
- 4.3.74 Following consultation with the Chief Financial Officer, to determine (raise or lower) charges for all types of school meals in accordance with the general policy of the Council on the School Meals Service.

**4.4 DIRECTOR QUALITY AND INTEGRATION (CCG/SCC)**

- 4.4.1 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Part III of the National Health Service and Community Care Act 1990 and any Regulations thereunder.
- 4.4.2 To approve expenditure on the following matters:
  - a. contributions to the funds of voluntary organisations providing services for the elderly and/or the disabled, in accordance with the approved policy, including initial grants to newly formed clubs and centres, annual grants and contributions towards running costs;
  - b. contributions towards the running costs of new meals-on-wheels schemes and luncheon clubs and variations in costs of existing schemes.
- 4.4.3 To act as receiver under legislation relating to mental health.
- 4.4.4 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 4.4.5 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Chief Financial Officer.
- 4.4.6 To take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any magistrate, court or other tribunal on behalf of the council in discharge of the Council's adult social care functions arising under any law or act.
- 4.4.7 To approve the letting of contracts for the provision of social care support in Extra Care Housing subject to best value considerations upon such terms as the Head of Legal & Democratic Services considers reasonable.
- 4.4.8 To take any decision and/or develop approaches that commit Council resources that are within budget and policy to deliver better outcomes for local people to meet the requirements of the Health and Social Care Act and subsequent legislation, after consultation with the Director for People and the relevant Cabinet Member.
- 4.4.9 To approve, amend or terminate contracts with providers whose services are commissioned by Southampton City Council or jointly with partners as part of the Integrated Commissioning Unit, after consultation with the Head of Legal & Democratic Services, Chief Financial Officer and the Director of People.
- 4.4.10 To enter into partnership arrangements and approve future variations to the arrangements for the agreement under Section 75 of the NHS Act 2006 to enable the

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Council to act as host of the pooled fund and lead the commissioning of services for people with learning disabilities and their carers, following consultation with the Director of People, Head of Legal & Democratic Services and the relevant Cabinet Member.

- 4.4.11 To enter into partnership arrangements and approve future variations to the arrangements for the agreement under section 75 of the NHS Act 2006 for the provision of services for adults with learning disabilities and their carers after consultation with the Director of People, the relevant Cabinet Member and the Head of Legal & Democratic Services.
- 4.4.12 To enter into partnership arrangements and approve future variations to the arrangements for the agreement under Section 75 NHS Act 2006 to deliver integrated Mental Health Services after consultation with the Director of People the relevant Cabinet Member and the Head of Legal & Democratic Services.
- 4.4.13 Following consultation with the Cabinet Member where possible, to sign-off and return responses to formal and informal consultative proposals from Government Departments on matters of professional judgement and/or policy.
- 4.4.14 All Adult's Social Care functions exercisable by the Council in its capacity as a local authority.
- 4.4.15 To enter into partnership arrangements under section 75 of the NHS Act 2006 for the provision of LBHU services and; establish a Partnership Board to oversee and manage the LBHU Services and; agree the Constitution and Terms of Reference of the Partnership Board.
- 4.4.16 To authorise payments in accordance with the conditions set out under Section 76 of the National Health Service Act 2006 after consultation with the Director of People and the relevant Cabinet Member.
- 4.4.17 To enter into partnership arrangements under section 75 of the National Health Service Act 2006 for the provision of integrated services in addition to those already established and; establish a Partnership Board to oversee and manage such integrated Services and; agree the Constitution and Terms of Reference of the Partnership Board.
- 4.4.18 After consultation with the Director of People, the Chief Financial Officer and the Head of Legal & Democratic Services, to extend, renegotiate, or enter into any further agreements with NHSSC in relation to any funding streams allocated to NHSSC, or successor body, with the specific purpose of being transferred to the Local Authority under a S256 arrangement and add any such sums to the budget.

**4.5 HEAD OF ADULT SOCIAL CARE**

- 4.5.1 To discharge the Council's functions with regard to the assessment of need for, and provision of, community care services in accordance with the Part III of the National Health Service and Community Care Act 1990 and any Regulations thereunder.
- 4.5.2 To accept guardianship applications and subsequent renewals such action to be reported to the appropriate Cabinet Member and to determine subsequent applications for discharge by the Authority.
- 4.5.3 To act as receiver under legislation relating to mental health.
- 4.5.4 To approve expenditure incurred under Section 48 of the National Assistance Act 1948, in the protection of movable property of persons and to recover such expenditure where applicable.
- 4.5.5 For the purposes of Section 114 of the Mental Health Act 1983, to issue approvals on behalf of the Council in respect of mental health social workers.
- 4.5.6 To make payments of trust monies for the maintenance, advancement or benefit of a beneficiary following consultation with the Chief Financial Officer.
- 4.5.7 To take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any magistrate, court or other tribunal on behalf of the council in discharge of the Council's adult social care functions arising under any law or act.
- 4.5.8 To write off debt or waive future charges in respect of care provision where it is felt that an individual would be at risk if the debt were pursued or they chose to withdraw from care on financial grounds. A written record of these decisions setting out the reasons for the write-off or waiving of charges should be kept and a copy provided to the Accounts Receivable department. Such reductions or waiving of charges would only be for the minimum period that such risks exist.
- 4.5.9 Following consultation with the Cabinet Member where possible, to sign-off and return responses to formal and informal consultative proposals from Government Departments on matters of professional judgement and/or policy.
- 4.5.10 All Adult's Social Care functions exercisable by the Council in its capacity as a local authority.

#### **4.6 HEAD OF HOUSING SERVICES**

These powers relate to Council dwellings within the HRA

- 4.6.1 To serve Notices of Seeking Possession and/or Notices to Quit where appropriate and to take necessary action upon the expiry of such Notices.
- 4.6.2 To institute proceedings for the recovery of possession of property and/or land occupied by squatters.
- 4.6.3 To serve notices and to institute forfeiture proceedings to residential leaseholders in appropriate cases.
- 4.6.4 To evict, where lawful, necessary and expedient.
- 4.6.5 To authorise a one-off reduction in rent by up to a maximum of £500 where some or all of the dwelling is unusable due to major works or loss of services.
- 4.6.6 To authorise the sale of Council houses and flats in accordance with the Right to Buy legislation and the shared ownership scheme for all mortgagees, their management and subsequent repayment.
- 4.6.7 To operate the deferred payment mortgage scheme.
- 4.6.8 To operate the Housing Act Advances Scheme including the granting of Maturity Loans as well as operating the Right to Buy Mortgages Scheme including administration and subsequent redemption of the mortgage.
- 4.6.9 In relation to water rates and budget warmth debts, to write off any debts which have been accepted and cannot be recovered.
- 4.6.10 To authorise variations in shop leases, rents and terms of tenure where this is consistent with effective management of estates, contributes to social enterprise or tackling worklessness, or provides services which support the local community.
- 4.6.11 To authorise the repossession, under the County Court Rules 1981 of properties sold under the Right to Buy Legislation and the shared ownership scheme following default on Mortgage Payments rent and/or leasehold maintenance and major works costs.
- 4.6.12 To approve homeloss, disturbance and ex-gratia payments for removal expenses for displaced tenants on modernisation or major works of Council dwellings.
- 4.6.13 To determine transfer by applications by tenants on management grounds.
- 4.6.14 To authorise attendance and representation of the Council at Leasehold Valuation Tribunal (LVT) for the purposes of presenting information as required and to agree

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decisions or proposals made through the LVT process in accordance with the Council's legal responsibilities in the discharging of the Council's housing functions.

- 4.6.15 To discharge the Council's functions as a local housing authority in respect of the day to day routine management, maintenance, improvement and repair of properties or land held under the powers of the Housing Act 1985 or any re-enactment thereof including those properties sold under the Right to Buy Scheme and any other properties managed but not funded from the Housing Revenue Account in accordance with agreed policies and the Council's relevant Procedure Rules.
- 4.6.16 To grant tenancies to people left in occupation, and joint tenancies in accordance with Annex C of the Code of Guidance on Parts VI and VII of the Housing Act 1996.
- 4.6.17 To determine transfer by application by tenants on management grounds.
- 4.6.18 To take any decisions or actions necessary in relation to community safety and anti-social behaviour, including the submission of funding bids, approving projects related to community safety and anti-social behaviour, authorising enforcement action, approving specific projects to meet targets in corporate plans and any projects relating to community cohesion, tackling social exclusion and discrimination.
- 4.6.19 To determine applications made under the Leasehold Reform, Housing and Urban Development Act 1993.
- 4.6.20 To institute proceedings under the Protection from Eviction Act 1977.
- 4.6.21 To institute proceedings under Section 1 Accommodation Agencies Act 1953.
- 4.6.22 To make amendments to the Tenants' Incentive Scheme eligibility criteria and authorise payments under the scheme if local circumstances require.
- 4.6.23 After consultation with the Director of People:
  - a. determine and alter as necessary a scale of reasonable charges in respect of enforcement action under s49 of the Housing Act; and
  - b. determine and alter as necessary an administrative fee for works carried in default of notices.
- 4.6.24 To allocate acquired properties, hostel accommodation and property allocated for short life. In addition, in exceptional circumstances, to approve the permanent rehousing of applicants, both to be exercised outside the Council's Points Scheme.
- 4.6.25 To discharge the Council's functions and duties under Part III Housing Act 1985 and Part VII of the Housing Act 1996 (homelessness) and to make all administrative decisions in this regard.

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- 4.6.26 To let empty acquired properties to housing co-operatives or Housing Associations for housing use and to obtain any necessary consent, following consultation with the Chief Financial Officer.
- 4.6.27 To grant secure tenancies to decanted tenants where a return to their previous address is either not feasible or where to do so would be in the interests of the best management of the stock.
- 4.6.28 To grant approval to offers to applicants as laid down in the policy approved by H&CR Committee in 1997 where properties have proved hard to let.
- 4.6.29 To operate the Special Needs quota exceptional allocations policy as approved. This policy to include PDO referrals in accordance with the Potentially Dangerous Offenders protocol and MAPPA's in accordance with the Multi-Agency Public Protection Agreement.
- 4.6.30 To determine the appropriate number of temporary units of accommodation to be used for this purpose at any one time, including the approval to use SCC "normal" stock as temporary accommodation for the discharge of duties under the Homelessness Act 2002.
- 4.6.31 To grant tenancies, in accordance with the Council's policy, to wardens who retire and approve exceptions to that policy in exceptional circumstances.
- 4.6.32 To review and amend the current allocations policy.
- 4.6.33 To allocate the Department for Communities and Local Government (DCLG) Homelessness Directorate grant received, following consultation with the Homelessness Steering Group, relevant Cabinet Member and Chief Financial Officer.
- 4.6.34 To determine applications under Section 3(5) Housing Defects Act 1984.
- 4.6.35 To authorise payments under the Tenants Right to Compensation or Improvements and the Right to Repair.
- 2.6.15 To accept written in-house bids for the maintenance and improvement of HRA buildings following consultation with the Chief Financial Officer.
- 4.6.36 To determine when the Landlord Controlled Heating should be switched on and off, after consultation with the relevant Cabinet Member to determine and revise the level of charges for Landlord Controlled Heating in future years.
- 4.6.37 After consultation with the relevant Cabinet Member, to determine and revise the level of charges for Landlord Controlled Heating in future years.
- 4.6.38 To accept written bids and arrange and enter into suitable supplier contract arrangements for the provision of maintenance and improvement schemes and to do

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anything necessary to implement , subject to the formal approval of the proposed partnering arrangements by the Chief Financial Officer after consultation with the Head of Legal & Democratic Services.

- 4.6.39 To make annual financial amendments to the Housing Revenue Account Business Plan 2007 – 2037 and refresh every five years, following consultation with the Cabinet Member.
- 4.6.40 To set the rent to be charged to tenants for each leased dwelling to ensure that the costs of the overall scheme are at least covered by rental income.
- 4.6.41 To make an ex-gratia payment to 'under occupying' tenants who move to smaller properties in accordance with housing policy.
- 4.6.42 To grant tenancies to applicants in accordance with the Lettings Policy and local lettings policy decisions and to grant temporary service tenancies.
- 4.6.43 To determine appropriate officers to act as security administrators for the HCA Investment Management System.
- 4.6.44 To make decisions on the application of the Disabled Adaptations in Council Housing policy in individual cases and to make amendments to the policy as required.
- 4.6.45 To undertake the discharge of any of the Council's functions relating to the welfare of civilians under the Civil Defence Acts 1937 to 1948 and under Section 138 of the Local Government Act 1972 as amended by Civil Contingency Act 2004.
- 4.6.46 Following consultation with the relevant Cabinet Member and Head of Legal & Democratic Services to make applications to the Secretary of State in respect of works on common land.
- 4.6.47 Following consultation with the relevant Cabinet Member and appropriate stakeholders to review and amend Directorate policies and strategies.
- 4.6.48 To grant a service concession to procure services that meet the Council's service plans, following consultation with the Chief Financial Officer or Head of Legal & Democratic Services and the relevant Cabinet Member.

### **Supported Housing**

- 4.6.49 To amend the allocations criteria for supported housing, following consultation with the relevant Cabinet Member and tenants.





### **PART 8: ANCILLARY DOCUMENTS**

#### **APPOINTMENT OF STATUTORY AND PROPER OFFICERS**

##### **Introduction**

- 1.1 This report reviews the position of the statutory and Proper Officers within the authority and records the appointment of Proper Officers by the Head of Legal & Democratic Services.
- 1.2 The Local Government Act 1972 and other legislation requires local authorities to make specific statutory appointments which carry specific responsibilities. Three of those posts are the statutory officer posts, namely the Head of Paid Service, Chief Financial Officer and Monitoring Officer. These are identified in Appendix A.
- 1.3 Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament. Those posts designated as Proper Officer are specified in Appendix B.

##### **Appointment**

- 2.1 The Head of Legal & Democratic Services has delegated authority to act as / make any Proper Officer appointments.
- 2.2 If the office of any of the Proper Officers is vacant or the person appointed is absent or otherwise unable to act then the most senior available officer or person to the Proper Officer is authorised to act as Proper Officer.

**STATUTORY OFFICERS**

Legislation requires local authorities to identify specific officers for particular responsibilities. These are detailed below:

<b>STATUTORY REQUIREMENTS</b>	<b>ALLOCATED TO</b>
<b><u>STATUTORY OFFICERS</u></b>	
<b>Section 4 Local Government Act 1989</b> Head of Paid Service	Chief Executive
<b>Section 151 Local Government Act 1972</b> Chief Financial Officer	Chief Financial Officer
<b>Section 5 Local Government Act 1989</b> The Monitoring Officer	<a href="#"><u>Director of Corporate Services-Head of Legal &amp; Democratic Services</u></a>
<b><u>OTHERS</u></b>	
Director of Adult Social Services (Section 6 Local Authority Social Services Act 1978)	Director, People
<b>Section 18 Children's Act 2004</b> Director of Children's Services	Director, People
<b>Representation of the People Act 1983</b> Electoral Registration Officer (Section 9-13A Representation of the People Act 1983)	<a href="#"><u>Director of Corporate Services-Director, Place</u></a>
<b>Agriculture Act 1970</b> Agricultural Analyst	Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL
<b>Food Safety Act 1990</b> Public Analyst (Section 5 Food Safety Act 1990)	Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL
<b>Weights &amp; Measures Act 1985</b> Inspector of Weights and Measures (Section 69(1) Weights & Measures Act 1985)	Trading Standards Officer Team Leader
<b>Registrations Service Act 1953</b> Registrar of Births and Deaths (Sections 5 & 6, Registrations Service Act 1953)	Superintendent Registrar Registrar of Births, Deaths & Still Births Registrar of Marriages

**Environmental Protection Act 1990**

Officer identified as dealing with stray dogs  
(Section 149 Environmental Protection Act 1990)

Animal Welfare Officer

**The Cremation Regulations 1930**

Regulation 7 requires that the Cremation  
authority appoints a Registrar for Cremation

Bereavement Services Team Leader is  
appointed as the Registrar for Cremations

**Data Protection Act 1998**

Head of Legal & Democratic Services

[Local Government Act 2000, Section 21ZA](#)  
[Scrutiny Officer](#)

[Democratic Services Manager](#)

**PROPER OFFICER RESPONSIBILITIES**

Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament.

**1. HEAD OF LEGAL & DEMOCRATIC SERVICES**

The Senior Manger: Legal & Democratic Services is 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 26 October 1972 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 reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council:
- (c) the following provisions:

**Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Sections 83(1)-(4)	Witness and receipt of declaration of acceptance of office
Section 84	Receipt of declaration of resignation of office
Section 88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chair
Section 89(1)(b)	Receipt of notice of casual vacancy from two local government electors
Section 96(1)	Receipt of notices of pecuniary interest
Section 96(2)	Keeping record of disclosures of pecuniary interest under Section 94 and of notices under Section 96(1)
Section 100(B)(2)	Circulation of reports and agendas
Section 100(B)(7)	Supply of papers to the press
Section 100(D)(1)(a) and 100D(5)(a)	Background papers
Section 100F(2)	To decide which documents are excluded from members inspection

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Section 191	Functions with respect to Ordnance Survey
Section 210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to the Proper Officer
Section 225(1)	Deposit of documents
Section 229(5)	Certification of photocopies (note Section 3)*
Section 234	Authentication of documents (note Section 3)**
Section 236(9) & (10)	Service of byelaws on other authorities
Section 238	Certification of byelaws
Schedule 12 paragraph 4(2)(b)	Signature of summonses to Council meetings

#### **Local Government Act 1974**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 30(5)	Notice of Local Government Ombudsman's report.

#### **Local Government (Miscellaneous Provisions) Act 1976**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 41	Evidence of resolutions and minutes of proceedings

## **2. CHIEF FINANCIAL OFFICER (CHIEF FINANCIAL OFFICER)**

The Chief Financial Officer is the Council's statutory Chief Financial Officer and is appointed the Proper Officer in relation to the following:

- (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 the 26 October 1972 to the Treasurer or a Treasurer 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 reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of an order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council

- (c) Provisions of the Local Government Act 1972, as follows:-

**Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 115(2)	Receipt of money due from officers
Section 146(1)(a) & (b)	Declarations and certificates with regard to securities

**3. DEMOCRATIC SERVICES MANAGER**

The Democratic Services Manager is appointed the Proper Officer in relation to the following:

- (a) The following provisions:

**Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Section 100(C)(2)	Summaries of minutes
Schedule 12 paragraph 4(3)	Receipt of notices regarding addresses to which summons to meetings are to be sent
Section 229(5)	Certification of photocopies (only in respect of Minutes and Records of Decision)*
Section 234	Authentication of documents (only in respect of Minutes and Records of Decision)**
Section 248(2)	Keeping roll of Freemen

**Local Government and Housing Act 1989**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Sections 15 and 16	Appointment of Members to Committees in accordance with Group Leader or Group Leader's representatives wishes.

**4. BUSINESS SERVICES MANAGER**

The Business Services Manager is appointed the Proper Officer in relation to the following:

Issues in respect of Electoral Registration, etc.

5. **HEAD OF PLANNING, TRANSPORT AND SUSTAINABILITYCULTURE & PLANNING**

Head of Planning, Transport and SustainabilityCulture & Planning is appointed the Proper Officer in relation to:

**Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Schedule 16	Receipt of deposit lists of protected buildings

The Head of Planning, Transport and SustainabilityCulture & Planning is appointed the Proper Officer in respect of powers contained in Section 78 of the Building Act 1984, ie, to act as "the surveyor" empowered to take and authorise emergency action in respect of damage and dangerous buildings, walls etc, and to order the demolition of buildings rendered dangerous by fire damage, without the prior authorisation of the Council.

6. **HEAD OF REGULATORY & CITYSERVICES**

**Local Government Act 1972**

The Head of Regulatory & City Services is appointed the Proper Officer in relation to:

- (a) Sections 9(1), 9(2), 13(2)(h), 13(3)(b) and 20(b) of the Registration Services Act 1953
- (b) the provisions of the Registration of Births, Deaths and Marriages Regulations 1968 to 1994.

7. **THE CONSULTANT IN COMMUNICABLE DISEASE CONTROL (CCDC)  
THE COUNCIL'S SCIENTIFIC OFFICER**

The Consultant in Communicable Disease Control with Southampton University Hospitals NHS Trust is appointed the Proper Officer for the purposes of:-

- (a) Sections 11(1), 11(3), 18(1), 20(1), 21(1), 22(1), 23(2), 24(1), 26(2), 29(4), 30(2), 31(1), 32(1), 34(3), 34(5), 35(1), 36(1), 37(1), 38(1), 39(1),39(3), 40, 41 (1), 42(1), 43(1), 48(1), 50(2)(b) and 51 (1) of the Public Health (Control of Disease) Act 1984.
- (b) Regulations 6, 8, 10 and 12 of The Public Health (Infectious Diseases) Regulations 1988.
- (c) All functions of the "Medical Officer" under the Public Health (Aircraft) Regulations 1979 (as amended) and the Public Health (Ships) Regulations 1979 (as amended).

In accordance with the provisions of Section 101 Local Government Act 1972 the Consultant in Communicable Disease Control may when absent authorise another community physician with experience in environmental health and the control of communicable diseases to act as Proper Officer.

## **8. HEAD OF HOUSING SERVICES**

The Head of Housing Services is appointed the Proper Officer in relation to the following:

- (a) the issue of certificates under the provisions of the Rent (Agriculture) Act 1976 in relation to the provision of alternative accommodation
- (b) the provisions of Schedule 15 Part (iv) of the Rent Act 1977 relating to certificates as to the provision of suitable alternative accommodation.

## **9. HEAD OF PROVIDER SERVICES ADULTS**

The Head of CYP Strategic Commissioning, Education, Inclusion & Infrastructure, Head of Provider Services Adults and Head of Safeguarding Adults are appointed the Proper Officers in relation to Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.

## **10. NON-EXECUTIVE DECISION-MAKING**

The report author of any report to be considered by the Council or a Committee / Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:

- (a) The identification of and compilation of lists of background papers to reports;
- (b) The identification of confidential documentation.

## **11. OTHER**

The Constitution and/or primary and secondary legislation associated with the Constitution and both Executive and non-Executive functions and decision-making contain a range of Proper Officer posts. Save where prescribed in this part of the Constitution, those responsibilities are set out in the remainder of the Constitution, eg Council Procedure Rules. In the absence of any identified postholder, the Proper Officer shall be the Head of Legal & Democratic Services.





## PART 9: DEFINITIONS

### Definitions

<b>Access to Information Rules</b>	those Rules setting out the terms on which members of the public may attend Council meetings and obtain copies of documents as detailed in Part 4 of this Constitution
<b>Area</b>	the geographical area which is the administrative responsibility of the Authority
<b>Authority</b>	The local authority known as Southampton City Council
<b>Cabinet</b>	the Leader and Cabinet Members together
<b>Cabinet Member</b>	a Councillor who is appointed by the Leader to be a member of the Cabinet
<b>Chair</b>	Any individual appointed to chair a Committee
<b>Chief Executive</b>	the Chief Executive for the time being of the authority
<b>Chief Financial Officer</b>	the Officer appointed by the Authority to be Chief Finance Officer and have responsibility for those duties designated under Section 151 of the 1972 Act, Section 73 of the 1985 Act and Section 112 of the 1988 Act
<b>Committee</b>	Any committee, sub-committee, board, sub-board or commission of the Council
<b>Council</b>	the collective terms for all of the elected Members of the Authority
<b>Councillor / Member</b>	an elected Member of the Authority
<b>External Auditor's Management Letter</b>	Annual Letter issued by the external Auditor
<b>Executive</b>	a collective term embodying the Cabinet and Leader when they operate as a collective decision-maker (The Cabinet) or individually (Cabinet Member).
<b>Executive Decisions</b>	decisions of the Executive in accordance with the Executive Procedure Rules
<b>Executive Directors</b>	such directors as are for the time being appointed
<b>Extraordinary Meeting</b>	a Council Meeting called in accordance with the Council Procedure Rules

<b>Head of Paid Service</b>	the Officer appointed by the Authority to undertake all duties designated under Section 4 of the 1989 Act. The Chief Executive is the Head of Paid Service
<b>Leader</b>	the Councillor elected by the Council to be the Executive leader of the Authority
<b>LMS Scheme</b>	the Local Management of Schools Scheme
<b>Monitoring Officer</b>	the Officer appointed by the Authority to undertake all duties designated under Section 5 of the 1989 Act. The <u>Head of Legal and Democratic Services</u> <del>Director of Corporate Services</del> is the Monitoring Officer
<b>Officer</b>	an employee of the Authority
<b>Ombudsman</b>	the Local Government Ombudsman
<b>Proper Officer</b>	the Officer with statutory responsibilities as set out in Part 8 of this Constitution
<b>Secretary of State</b>	the Secretary of State for Communities and Local Government
<b>Mayor</b>	the Councillor elected by the Council to chair meetings of the Council
<b>Statutory Officers</b>	the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer
<b>The 1972 Act</b>	the Local Government Act 1972
<b>The 1985 Act</b>	the Local Government Act 1985
<b>The 1988 Act</b>	the Local Government Act 1988
<b>The 1989 Act</b>	the Local Government Act 1989
<b>The 2000 Act</b>	the Local Government Act 2000
<b>The 2011 Act</b>	the Localism Act 2011



### SCHEME FOR HANDLING PETITIONS

#### 1. **Petitions**

The Council welcomes petitions and recognises that they are a way in which the people can let the Council know their concerns. All petitions must be submitted in accordance with this guidance and can be in electronic form created from the Council's website or on paper and sent to Democratic Services, Civic Centre, Civic Centre Road, Southampton SO14 7LY.

#### 2. **Content**

##### 2.1 Petitions submitted to the Council must:-

- include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
- should be accompanied by the name, address, and contact details of the petition organiser; and
- contain a minimum of 50 signatures of persons who live, work or study in the City and who support the petition.

#### 3. **Petition Organiser**

The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the website. If the petition does not identify a Petition Organiser, the Council will contact signatories to the petition to agree who should act as the Petition Organiser.

#### 4. **Restrictions**

##### 4.1 A petition may be rejected should the Democratic Services Manager consider that the petition:-

- contains intemperate, inflammatory, abusive or provocative language;
- is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statements;
- is too similar to another petition submitted within the last six months;
- discloses confidential or exempt information, including information protected by a court order or government department;
- discloses material which is otherwise commercially sensitive;
- contains names of individual citizens as the target of the petition, or provides information where they may be easily identified, e.g. officers or public bodies;
- 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 the Council's Planning or Licensing functions as there are separate statutory processes in place for dealing with these matters;
- does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities; or
- has already been the subject of debate by Full Council within the last six months.

- 4.2 During politically sensitive periods, such as prior to an election or referendum, politically controversial material may need to be restricted.
- 4.3 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Council will write to you to explain the reasons.

## 5. **On Receipt of a Petition**

- 5.1 An acknowledgement will be sent to the Petition Organiser within three working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again. It will also be published on the website.
- 5.2 If the Council can do what your petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (over 1,500 signatures), or 750 signatures requiring referral to Overview & Scrutiny Management Committee, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, the Council will tell you the steps it plans to take. If more than one petition is received on the same subject matter within a 7 day period, if appropriate, they will be amalgamated which may trigger a Council debate as above.
- 5.3 If the petition relates to action currently being progressed by the Council and the petition triggers with a debate at Full Council or Overview & Scrutiny Management Committee, then the action will be suspended pending the debate, save in relation to statutory, contractual or other legal situations, where suspension would prejudice the Council's position.
- 5.4 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council Tax Banding and non-domestic rates, other procedures apply. These will take precedence.
- 5.5 The Council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in its acknowledgement of the petition.
- 5.6 To ensure that people know what the Council is doing in response to the petitions received, the details of all the petitions submitted will be published on the website, except in cases where this would be inappropriate. Whenever possible the Council will also publish all correspondence relating to the petition (all personal details, except the name, will be removed).

## 6. **Council's Response to Petitions**

- 6.1 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-
- taking the action requested in the petition
  - considering the petition at a Council meeting
  - holding an inquiry into the matter
  - undertaking research into the matter

- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council's Overview and Scrutiny Committee\*
- calling a referendum
- writing to the petition organiser setting out the Council's views about the request in the petition

\*Overview and Scrutiny Committees are committees of Councillors who are responsible for scrutinising the work of the Council - in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

- 6.2 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) it will give consideration to what the best method is for responding to it. The Council may make representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then it will set out the reasons for this to you.
- 6.3 if your petition is about something that a different Council is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event the Council will always notify you of the action it has taken.

## 7. **Full Council debates**

- 7.1 If a petition contains more than 1,500 signatures, where time permits it will be debated by the full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Petition Organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors in accordance with Council Procedure Rules as contained. Where time does not permit a debate at Full Council, the matter will be referred to the appropriate decision-maker or relevant committee. If the petition is a matter relating specifically to the February budget resolution and cannot be deferred, the Mayor will use their discretion as to how the matter will be handled.
- 7.2 The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The Petition Organiser will receive written confirmation of this decision. This confirmation will also be published on the City Council's website.

## 8. **Non Qualifying Petitions (fewer than 1,500 signatures)**

- 8.1 Should the petition contain at least 750 signatures, the relevant Cabinet Member or Director will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. The petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to explain progress

on an issue, or to explain the advice given to Councillors to enable them to make a particular decision. A list of the senior staff that can be called to give evidence can be found at <http://www.southampton.gov.uk/council-partners/corporatemanagement/>.

- 8.2 Petitioners should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Democratic Services up to three working days before the meeting.
- 8.3 A petition with a minimum of 50 signatures will be treated as one to which a response in accordance with the Scheme is to be made. Petitions with fewer signatories may still be submitted, but the Council will have greater flexibility in responding to the issues these petitions raise.

## 9. **E-petitions**

- 9.1 The Council welcomes e-petitions which are created and submitted through the [website](#). E-petitions must follow the same guidelines as paper petitions. The Petition Organiser will need to provide the Council with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for three months, but you can choose a shorter or longer timeframe, up to a maximum of six months.
- 9.2 Individuals signing an e-petition will receive by email a link to that part of the City Councils' website where the response to the petition will be displayed. The Council regrets that it cannot respond by post or other means other than posting information on the website to all the signatories of paper petitions other than the promoters and organisers.
- 9.3 Should the Council feel that it cannot publish a petition for some reason the Petition Organiser will be contacted with an explanation and given the opportunity to amend and resubmit the petition. If the Petition Organiser does not resubmit within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

### TERMS OF REFERENCE FOR LICENSING COMMITTEE

#### GENERAL

- a. This is a committee of the Council appointed by the Council under Section 6 of the Licensing Act 2003.
- b. The Council has arranged under Section 7 of the 2003 Act and Section 101(1) of the 1972 Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

#### TERMS OF REFERENCE

1. To undertake all licensing functions, powers and duties conferred by the Licensing Act 2003 and as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act, 1972 including but not limited to the matters set out below.
2. Approve a framework for the effective discharge by the Council of the statutory licensing function by itself and its sub-committees.
3. Keep under review and publish a Statement of Licensing Policy. .
4. Appoint sub-committee(s) to discharge the Council's licensing functions under the Licensing Act 2003.
5. Appoint sub-committee(s) to discharge the Council's licensing functions as set out in schedule 1B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2853 of 2000) as amended and the Local Government Act 1972.
6. To set licence fees as appropriate under the Gambling Act 2005.

## TERMS OF REFERENCE FOR LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

### GENERAL

- a. This is a sub-committee of the Licensing Committee appointed by that Committee under the Licensing Act 2003.
- b. The Committee has arranged under Section 9 of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Sub-Committee to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Panel's competence has been delegated to an officer, the Sub-Committee may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal & Democratic Services in pursuance of Council Procedure Rule 26.2 or which may be prescribed by law.

### TERMS OF REFERENCE

#### Licensing Act 2003

Except for matters of Policy to undertake all functions, powers and duties conferred by the Licensing Act 2003 including but not limited to the matters set out below:

1. Power to determine applications for personal licences.
2. Power to determine applications for premises licences and club premises certificate.
3. Power to determine applications for variation of premises licence and club premises certificates.
4. ~~Power to register and deregister designated premises supervisors.~~
5. Power to determine applications for transfer of premises licences.
6. Power to review premises licence and club premises certificates.
7. Power to determine police **or environmental health** objections to temporary event notices.

#### Gambling Act 2005

8. a. Where representations on the following applications **where representations have been received and not withdrawn** to determine applications:
  - i. **for premises licences**
  - ii. **for variation of premises licences**
  - iii. **for transfer of premises licences**

**Commented [BJ1]:** Removed and replaced by the Private Security Industry Act 2001



iv. for a provisional statement

v. for club gaming or club machine permits

b. The cancellation of club gaming or club machine permits

c. Decision to give a counter notice to a temporary use notice

d. Take "action" under Section 202 where the review is heard by the sub committee

9. ~~Power to register pool betting operating licence.~~

10. ~~Power to grant track betting licences.~~

11. ~~Power to licence inter track betting schemes.~~

12. ~~Power to grant gaming and betting machine licences.~~

13. Power to register societies wishing to promote lotteries.

14. Power to issue premises licences and to receive temporary use notices.

**Commented [BJ2]:** These appear to relate to repealed Gaming Act 1968 powers

**Commented [BJ3]:** Both delegated to HoL&DS in their entirety (subject to 8(a) above)

## TERMS OF REFERENCE FOR LICENSING (GENERAL) SUB-COMMITTEE

### GENERAL

- a. This Sub-Committee is a Sub-Committee of the Licensing Committee appointed by the Committee under the Local Government Act 1972.
- b. The Committee has arranged under Section 101(1) of that Act for the discharge by the Sub-Committee of such of the Council's functions as are within the Sub-Committee's terms of reference (set out below).
- c. Certain functions are delegated by this Panel to Officers. Full details may be found in the Officers' Scheme of Delegation which may be obtained from the Democratic Services Manager.
- d. Where a function or matter within the Sub-Committee's competence has been delegated to an officer, the Sub-Committees may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e. The exercise of any function or matter within the Sub-Committee's competence is always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Head of Legal and Democratic Services in pursuance of Council Procedure Rule 26.2.

### TERMS OF REFERENCE

Except for matters of Policy to undertake all licensing functions, powers and duties conferred by the Local Government Act 1972 including but not limited to the matters set out below:

- |  |  |
|--|--|
| 1. Power to license hackney carriages and private hire vehicles              | (a) as to the hackney carriages, the Town Police Clauses Act, 1847 (10 & 11 Vict.c.89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict.c.55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57,58,60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976(c.57);<br><br>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976. |
| 2. Power to license drivers of hackney carriages and private hire vehicles   | Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.  |
| 3. Power to license operators of hackney carriages and private hire vehicles | Sections 51, 53, 54, 59, 61 and 69 of the Local Government (Miscellaneous Provisions) Act 1976   |
| 4. Power to license sex shops and sex cinema and sex entertainment venues    | Section 2 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982  |
| 5. Power to license performances of hypnotism                                | The Hypnotism Act 1952   |

**Commented [BJ4]:** Sex Establishment provisions adopted in 2012/13

6. Power to license market and street trading

Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, ~~Part III of the London Local Authorities Act 1990 (c.vii) and section 6 of the London Local Authorities Act 1994~~

**Commented [BJ5]:** Not in London!

~~7. Power to make closing orders with respect to take-away food shops~~

~~Section 4 of the Local Government (Miscellaneous Provisions) Act, 1982~~

**Commented [BJ6]:** Repealed by schedule 7 Licensing Act 2003

~~8. Power to license dealers in game and the killing and selling of game~~

~~Sections 5,6,17,18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874 (c.73), and section 213 of the Local Government Act 1972 (c.70)~~

**Commented [BJ7]:** Repealed by the Regulatory Reform (Game) Order 2007

~~9. Power to license scrap yards~~

~~Section 1 of the Scrap Metal Dealers Act 1964 (c.69)~~

**Commented [BJ8]:** Repealed by the Scrap Metal Dealers Act 2013 (now exec)

10. Power to license persons to collect for charitable and other causes

Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House to House Collections Act 1939 (c44)

11. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption

Section 13(2) of the Criminal Justice and Police Act 2001

**Commented [BJ9]:** Replaced by Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.

12. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis

Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982

13. Power to license pleasure boats and pleasure vessels

Section 94 of the Public Health Acts Amendment Act 1907 (c.53)

14. Duty to keep list of persons entitled to sell non-medicinal poisons

Sections 3(1)(b)(ii), 5,6 and 11 of the Poisons Act 1972 (c.66)

15. Power to register and license premises for the preparation of food

Section 19 of the Food Safety Act 1990 (c.16)

16. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds

The Safety of Sports Grounds Act 1975 (c.52)

17. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds

Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27)

Note: The above function is exercised by the Fire Officer.

18. Power to issue fire certificates

Section 5 of the Fire Precautions Act 1971 (c.40)

19. Power to license premises for the breeding of dogs

Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11)

20. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Acts 1964 and 1970 (1964c.70 and 1970c.70); section 1 of the Breeding of Dogs Act 1973 (c.60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999
21. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulations) Act 1925 (c.38)
22. Power to license zoos	Section 1 of the Zoo Licensing Act 1981 (c.37)
23. Power to license dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976 (c.38)
24. Power to license knackers' yards	Section 4 of the Slaughterhouses Act 1974. <i>See also</i> the Animal By-Products Order 1999 (S.I. 1999/646)
25. Animal Welfare powers	Animal Welfare Act 2006 (all functions insofar as they are non-Executive functions)
26. Power to license the employment of children	Part II of the Children and Young Persons Act 1933 (c33), byelaws made under that part, and part II of the Children and Young Persons Act 1963 (c37)
27. Power to approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)
28. Power to grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40)
29. Power to license agencies for the supply of nurses	Section 2 of the Nurses Agencies Act 1957 (c.16)
30. Power to issue licences for the movement of pigs	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11)
31. Power to license the sale of pigs	Article 13 of the Pigs (Records, Identification and Movement) Order 1995
32. Power to license collecting centres for the movement of pigs	Article 14 of the Pigs (Records, Identification and Movement) Order 1995
33. Power to issue a license to move cattle from a market	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871)
34. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35)
35. Power to approve meat product premises	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
36. Power to approve premises for production of minced meat or meat preparations	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)
37. Power to approve dairy establishments	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)

38. Power to approve egg product establishments	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520)
39. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
40. Power to approve fish products premises	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994)
41. Power to approve dispatch or purification centres	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
42. Power to register fishing vessels on board which shrimps or molluscs are cooked	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
43. Power to approve factory vessels and fishery product establishments	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
44. Power to register auction and wholesale markets	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
45. Duty to keep register of food business premises	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828)
46. Power to register food business premises	Regulation 9 of the Food Premises (Registration) Regulations 1991
47. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer	Part 1 of the Health and Safety at Work etc. Act 1974 (c.37)
48. Functions relating to sea fisheries	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38)
49. Registration of hairdressers and barbers	Section 4 Hampshire Act 1983
50. Touting, hawking, photography etc	Section 7 Hampshire Act 1983
51. Control of stray dogs	Section 8 Hampshire Act 1983
52. Seizure of horses	Section 9 Hampshire Act 1983
53. Any function relating to contaminated land. (Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)	Part IIA of the Environmental Protection Act 1990 (c43) and subordinate legislation under that part

54. The discharge of any function relating to the control of pollution or the management of air quality.  
(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)
55. The service of an abatement notice in respect of a statutory nuisance.
56. The inspection of the Authority's area to detect any statutory nuisance.  
(Except to the extent that the function involves the formulation of a strategic policy, in which case it is an executive function on which the panel should be consulted.)
57. The investigation of any complaint as to the existence of a statutory nuisance.
58. The obtaining of particulars of persons interested in land.  
(Except to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders)
59. The power to register motor salvage operators.
- Pollution Prevention and Control Act 1999 (c 24);  
Pt IV of the Environment Act 1995 (c 25);  
Part 1 of the Environmental Protection Act, 1990 (c 43) and the Clean Air Act, 1993 (c 11)
- Section 80(1) of the Environment Protection Act, 1990
- Section 79 of the Environmental Protection Act, 1990.
- Section 79 of the Environmental Protection Act, 1990.
- Section 16 of the Local Government (Miscellaneous Provisions) Act, 1976.
- Part I of the Vehicles (Crime) Act 2001 (c.3)

**Commented [BJ10]:** Repealed by the Scrap Metal Dealers Act 2013 (now exec)

### 2.2 HEAD OF LEGAL & DEMOCRATIC SERVICES

...

#### Hypnotism Act 1952

2.2.1 To grant, but not refuse, consent for performances of hypnotism.

#### Public Health Acts Amendment Act 1907

2.2.2 To grant, renew and suspend, but not to refuse or revoke, pleasure boat and boatman's licences.

#### Licensing Act 2003

2.2.3 To approve local certification of films that are capable of classification without difficulty and which are not likely to cause public concern, following consultation with the Chair of the Licensing Committee.

2.2.4 Subject to any requirement to place any matter before a duly convened Licensing Committee, to undertake the following functions under the Licensing Act 2003:

- a. where no objection or adverse representation is made to an application, to determine the following applications:
  - i. for a personal licence;
  - ii. for a premises licence or a club premises **certificate**;
  - iii. for a provisional statement;
  - iv. to vary a premises certificate or club premises certificate;
  - v. to vary a designated premises supervisor;
  - vi. to transfer a premises licence;
  - vii. for an interim authority;
  - viii. to serve counter notices in respect of temporary event notice applications;
  - ix. for removal of the mandatory designated supervisor condition for community premises.
- b. in all cases, to determine the following matters:
  - i. a request to be removed as a designated premises supervisor;
  - ii. to decide **whether a representation** is irrelevant, frivolous, vexatious, etc.;
  - iii. to keep a register under Section 8 of the Act;
  - iv. to enter premises as an authorised officer of the Council pursuant to Sections 96, 108 and 179 of the Act;
  - v. to agree to dispense with a hearing pursuant to Regulation 9 Licensing Act 2003 (Hearings) Regulations 2005;
  - vi. **consultation of other responsible authorities on minor**

- variation applications;
- vii. applications for minor variations of premises licences and club premises certifications;
- viii. To suspend premises licences or club premises certificates where the annual fee or late night levy has not been paid;
- ix. To withdraw club premises certificates where a club does not satisfy the conditions for being a qualifying club in relation to a qualifying club activity.

2.2.5 To enter premises for the purposes of consulting and advising on the licensing objectives and compliance with the Licensing Act 2003.

#### **Criminal Justice and Police Act 2001**

2.2.6 To serve a closure notice under section 19 of the Criminal Justice and Police Act 2001 where premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises.

#### **Anti-Social Behaviour, Crime and Policing Act 2014**

2.2.7 To issue a closure notice under sections 76 to 91 (Chapter 3) of the Anti-Social Behaviour, Crime and Policing Act 2014, if satisfied that there are reasonable grounds:

- (a) that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public, or
- (b) that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring

2.2.8 To ensure that any appropriate body or individual has been consulted before issuing a notice;

2.2.9 To vary and cancel a closure notice;

2.2.10 To serve a closure notice, an extension notice, a cancellation notice and variation notice, and to enter any premises for the purposes of complying with section 79(2)(a);

2.2.11 Where appropriate, to apply to the Magistrates' Court for a closure order;.

2.2.12 To carry out appropriate consultation and to recommend to Council on the making, extension, variation and discharge of Public Spaces Protection Orders under



sections 59 to 75 (Chapter 2) of the Anti-Social Behaviour, Crime and Policing Act 2014.

### **Local Government (Miscellaneous Provisions) Act 1982**

2.2.13 To inspect licensed sex establishments.

2.2.14 To renew sex establishment licences where no objection is made.

2.2.15 To grant by way of renewal, but not refuse, street trading consents for Above Bar Pedestrian Precinct.

2.2.16 Following consultation with the appropriate Head of Development, Economy & Housing Renewal to grant, but not refuse, street trading consents in respect of Guildhall Square, except for the sale of fruit and vegetables, subject to the terms and conditions of the licence and other legal criteria as appropriate including but not limited to those indicated in Appendix 4 of the City Services Committee on 21<sup>st</sup> December 1992, to restrict the hours of occupation and operation to between 8:00 am and 9:00 pm on any day, not excluding Sunday, save as restricted by law, for up to a maximum of 30 traders at any one time and subject to any supervision of any provision that may then be in force

### **Police, Factories, etc., (Miscellaneous Provisions) Act 1916 and the House to House Collections Act 1939**

2.2.17 To grant, but not refuse, applications for street collection permits and house-to-house collection licences.

### **Scrap Metal Dealers Act 2013**

2.2.18 To administer and enforce the function.

2.2.19 To determine applications (including refusal), revoke licences or to impose conditions under section 3(8)

2.2.20 To request further information of applicants (para 4, schedule 1)

2.2.21 To issue or cancel a closure notice for unlicensed sites and where appropriate to apply for closure orders (schedule 2) and take such other action in this respect as may be required.

### **Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976**

2.2.22 To determine applications for hackney carriage licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.23 To determine applications for private hire vehicle licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.24 To determine applications for hackney carriage drivers' licences, in accordance with

Council policy and to suspend and revoke such licences.

2.2.25 To determine applications for private hire drivers' licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.26 To determine applications for private hire operators' licences, in accordance with Council policy and to suspend and revoke such licences.

2.2.27 To make or vary a hackney carriage table of fares and to determine objections to any proposal to make or vary a table of fares.

### **Gambling Act 2005**

2.2.28 Subject to any requirement to place any matter before a duly convened Licensing Committee to undertake the following functions under the Gambling Act 2005:

- i. to determine applications for premises licences where no relevant representations are received.
- ii. to determine applications to vary premises licences in respect of which no representations have been received.
- iii. to determine whether a representation is vexatious, frivolous or would not influence the authority's determination of the application.
- iv. to determine applications for transfer of premises licences where no representations are received.
- v. to revoke premises licences for failure to pay the annual fee.
- vi. to determine that a premises licence has lapsed.
- vii. to reinstate a lapsed premises licence where no representations are received.
- viii. to reject an application for review of a premises licence on various grounds.
- ix. to initiate a review of a premises licence.
- x. to determine that representations about a review of a premises licence is frivolous, vexatious or will certainly not influence a review of a premises licence.
- xi. to determine action following a review of a premises licence where no hearing is held and all parties agree in advance to the relevant action.
- xii. to determine applications for a provisional statement in respect of which no representations are received.
- xiii. to disregard representations made in respect of applications for premises licences after issue of a provisional statement.
- xiv. to issue a counter notice to a temporary use notice where the number of permitted days are exceeded.
- xv. to object to a temporary use notice.
- xvi. to institute criminal proceedings in respect of an offence under the provisions

of the Act.

- xvii. to determine applications for family entertainment centres.
- xviii. to notify the lapse of family entertainment centre gaming permit.
- xix. to register **non-commercial societies for small lotteries**.
- xx. to **refuse** applications for registration for small society lotteries.
- xxi. to revoke registrations of societies for small society lotteries.
- xxii. to cancel registrations of societies for small society lotteries in the event of non-payment of the annual fee.
- xxiii. to determine applications for variation of club gaming permits and club registration permits and cancellation of permits where no representations are received.
- xxiv. to cancel club gaming permits and club registration permits for failure to pay the annual fee.
- xxv. to determination applications for grant, variation or transfer of licensed premises gaming machine permits.
- xxvi. to cancel licensed premises gaming machine permits and vary the number or category of machines where no representations are received.
- xxvii. to cancel licensed premises gaming machine permits for failure to pay the annual fee.
- xxviii. **determine** applications for prize gaming permits and applications for renewal of prize gaming permits.
- xxix. to determine that a prize gaming permit has lapsed.

## **Police and Social Responsibility Act 2011**

### **Late Night Levy**

- 2.2.29 To determine whether the holders of any relevant late night authorisations fall within any permitted exemption or reduction categories and in particular whether the holders of any relevant late night authorisations who are members of any approved business-led best practice scheme fall within the permitted reduction category;
- 2.2.30 To determine the aggregate amount of expenses of the Council that are permitted deductions under section 130(1)(b) of the 2011 Act;
- 2.2.31 To publish annual notices under section 130(5) of the 2011 Act relating to anticipated expenses and the net amount of the levy payments;
- 2.2.32 To make adjustments to payments in accordance with paragraph 7 of the Late Night Levy (Application and Administration) Regulations 2012;
- 2.2.33 To determine from time to time when and for what purposes the Council will apply the non-specified proportion of the net amount of the levy payments.

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