



## CONSTITUTION

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(This replaces all versions numbered 7.9 or less)

### NOTE

The officer titles used in this Constitution reflect the Organisational Structure as at 9/9/16. This may change from time to time please refer to the Monitoring Officer if in doubt.

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# *EXECUTIVE SUMMARY*

## *THE COUNCIL'S CONSTITUTION*

### **1. Summary**

- 1.1 The constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose.
- 1.2 The constitution is divided into three parts:
  - (i) Articles which set out the rules governing the council's business.
  - (ii) More detailed procedures and codes of practice which form part of the constitution.
  - (iii) Other protocols and documents which, whilst they need to be followed, are not formally part of the constitution.

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

- 2.1 Article 1 of the constitution commits the council to improving Island life.
- 2.2 Articles 2 to 17 explain the rights of citizens and how the key parts of the council operate.

### **3. How the council operates**

- 3.1 The council is composed of 40 councillors (also referred to as “members”) elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of councillors is to the whole Island community, but they have a special duty to their constituents, including those who did not vote for them.
- 3.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 3.3 All councillors meet together as the Full Council. Meetings of the council are open to the public except where personal or confidential matters are discussed. Here councillors decide the council's overall policies and set the revenue budget and capital programme each year. The Full Council appoints the leader of the council. Full Council is the main policy arena for the authority. Whilst the budget and many plans and strategies will be proposed by the Executive, Full Council has complete freedom in deciding whether to accept or amend these proposals, or indeed replace them completely. The Full Council meeting is also the main setting for holding the Executive to account, providing an opportunity for Executive members to be questioned by councillors or, indeed, members of the public.

#### **4. How decisions are made**

The Executive is the part of the council which is responsible for most day-to-day decisions. The Executive is made up of the leader and up to 9 other councillors appointed by the leader. When decisions are to be discussed or made, these are published in the forward plan which is available on the internet (link: <http://www.iwight.com/Council/transparency/The-Council/Delegated-Decisions/Forward-Plan>) in so far as they can be anticipated. Meetings of the Executive will be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the council's overall policies and budget. If it wishes to make a decision which is outside the approved budget or existing policy, this must be referred to the Full Council to decide.

#### **5. Staff**

- 5.1 The council has people working for it (sometimes called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the council acts within the law and uses its resources wisely. A protocol governs the relationships between staff and members of the council.

#### **6. Citizens' Rights**

- 6.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
- 6.2 Where members of the public use specific council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this constitution.
- 6.3 The council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the democratic services section of the council on 821000.

# **ARTICLE 1 - THE CONSTITUTION**

## **1. Powers of the Council**

- 1.1 The council will exercise all its powers and duties in accordance with the law and this constitution.

## **2. The Constitution**

- 2.1 Articles 1 to 17 of this document and the attached procedure rules and standing orders are the constitution of the Isle of Wight Council. Some other particularly relevant codes of practise and protocols are also held with the constitution to detail how the business of the council is to be undertaken in a number of discrete areas.

## **3. Purpose of the Constitution is to:**

- 3.1 enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 3.2 support the active involvement of citizens in the process of local authority decision-making;
- 3.3 help councillors represent their constituents more effectively;
- 3.4 enable decisions to be taken efficiently and effectively;
- 3.5 create a powerful and effective means of holding decision-makers to public account;
- 3.6 ensure that no one will review or scrutinise a decision in which they were directly involved;
- 3.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 3.8 provide a means of improving the quality and efficiency of delivery of services to the community.

## **4. Interpretation and Review of the Constitution**

- 4.1 Where the constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks best achieves the purposes stated above.
- 4.2 The council will monitor and evaluate the operation of the constitution as set out in Article 18 ([click here](#)).

## ARTICLE 2 - MEMBERS OF THE COUNCIL

### 1. **Composition and eligibility**

- 1.1 **Composition.** The council is made up of 40 councillors, otherwise called members. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- 1.2 **Eligibility.** Only registered voters on the Isle of Wight or those living or working or those who own land here will be eligible to hold the office of councillor. There are some restrictions to this and therefore if you are interested in standing as a councillor please consult the information available from [iwight.com](http://iwight.com).

### 2. **Election and terms of councillors**

- 2.1 The regular election of councillors will be held on the first Thursday in May every four years with the next ordinary elections due to be held in May 2021. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 3. **Transitional arrangements**

- 3.1 The chairman of the council is in that post until their successor is appointed at the annual meeting of the council, even if, in an election year, they are not re-elected at that election.
- 3.2 Where an elected member holds one of the other posts described in this constitution and they are re-elected at an ordinary election they will continue in that post until the annual meeting of the council immediately following that ordinary election. If they are not re-elected then the post is vacant until a replacement is appointed.

### 4. **Roles and functions of all councillors**

#### 4.1 **Key roles.** All councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions as detailed in Article 4 of this constitution;
- (ii) contribute to the good governance of the Isle of Wight and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their electoral division and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) be available to represent the council on other bodies; and

- (vi) maintain the highest standards of conduct and ethics, in accordance with the code of conduct

#### 4.2 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. Advice on this is available from the monitoring officer.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the access to information rules in this constitution ([click here](#)).

#### 5. **Members job profiles**

- 5.1 A detailed list of various member job profiles are set out in the following pages ([click here](#)).

#### 6. **Conduct**

- 6.1 Councillors will observe the members' code of conduct, declare interests in accordance with the code of conduct and observe the protocol on member/officer relations set out later in this Constitution ([click here](#)).

#### 7. **Allowances**

- 7.1 Councillors are entitled to receive allowances in accordance with the members' allowances scheme as attached to the constitution ([see iwight.com](#)).



## **MEMBERS JOB PROFILES**

### **1. All Elected Members – Generic Responsibilities**

- 1.1 Elected members have a number of distinct roles and the responsibilities, as detailed below.

### **2. Roles**

- 2.1 To act with the best interest of the entire Island Community, whilst also representing the views of their constituents.
- 2.2 Collectively, to determine the budget and policy framework of the council and to effectively discharge the functions which are the responsibility of the Full Council under this constitution.
- 2.3 To hold the Executive to account as either a member of the Full Council or as a member sitting on any of the Scrutiny Committees/Sub Committees.
- 2.4 To be an advocate of and for the interests of the constituency, individual electors, community groups and other stakeholders. To represent the interests of those individuals and groups to the council, and deal with enquiries and representations from constituents.

### **3. Duties**

- 3.1 To promote good community relations, ensure greater public/stakeholder participation and take and encourage steps to eliminate unlawful discriminatory practices and attitudes within and outside the council.
- 3.2 To promote the economic, social and environmental well-being of the island and to have regard to any island wide strategies when doing so.
- 3.3 To act in accordance with the members' code of conduct and the protocol for member/officer relations and all other all other procedures and protocols set out in the constitution.
- 3.4 To participate in the setting of, following proposals from the Executive, the budget and policy framework of the council, and particularly, the corporate plan.
- 3.5 To participate effectively as a member of the Executive or any committee or panel to which the councillor is appointed, including related responsibilities for the services falling within the Executive's, committee's (or panel's) terms of reference, and liaison with other public bodies to promote better understanding and partnership working.
- 3.6 To take into account when taking decisions and in leading the community relevant information and advice including where appropriate, the member's own political perspective.

- 3.7 To effectively represent, individually, and with other representatives of other electoral divisions, the interests of the electoral division, individual and groups of constituents in the policy formulation and decision making processes of the council and to other local and national bodies.
- 3.8 To assist in driving efforts of the council in reducing crime and eliminate inequality of opportunity and unlawful discrimination.
- 3.9 To undertake individual and collective responsibility for looked after children, as corporate parents.
- 3.10 To develop and maintain a working knowledge of the authority's services, management arrangements, powers/duties, and constraints.
- 3.11 To focus on service improvement and efficiency at a strategic and political level and not to become involved in the detail of operational or managerial issue
- 3.12 To lead and actively encourage community involvement and engagement in consultation in policy formulation and decision making by the council.
- 3.13 To respond to constituents enquiries and representations fairly and impartially.
- 3.14 To be available to be appointed to outside bodies and
  - (i) Where appointed as the council's representative, to act as directed by, or in the interests of the council other than when appointed as a Director or Trustee, where there is a legal duty to act in the interests of the outside body.
  - (ii) Where appointed as a director, trustee or other capacity bearing personal liability, to act in accordance with the law and in accordance with the interests of the outside body.
  - (iii) Where appointed as an observer or in another non decision making capacity, to represent the council without becoming involved in decision making by the outside body.
- 3.15 To engage with the media in accordance with agreed protocols
- 3.16 To complete a 300 word annual report for publishing on the Council's website for the annual council meeting each year other than election years.

#### **4. Entitlements**

- 4.1 Mandatory and further specialised training is provided for members who are encouraged to ensure that they are well informed and able to develop the skills to undertake their responsibilities and perform their duties.
- 4.2 Members have a right to access all information which they need to know in order to take decisions and carry out their other functions (subject to the protocol for councillors on

rights to information – [click here](#)). The extensive legal and constitutional provisions on members rights to attend meetings and access information are set out in the access to information rules in the constitution - [click here](#).

- 4.3 Members receive assistance with travel and conference booking in accordance with the members' allowances scheme from the resources business hub. Members have the facility to develop and maintain their own web pages on the Isle of Wight Council's web site.
- 4.4 All members receive a basic allowance as set out under the scheme of members allowances which is, in part, remuneration for time and expense spent on these duties. These duties will not normally give rise to recoverable subsistence or travel expenses. The allowances scheme also provides for additional allowances for certain post holders and some co-opted and independent members.
- 4.5 Members are entitled to information technology and software as determined by the council and to training in its use.
- 4.6 All co-opted and independent members of the council are formally members of the council for their respective function and are expected to meet the duties as set out above (as appropriate) and are entitled to the first four entitlements as set out above.

## **5. Chairman of the Council**

- 5.1 It is the duty of the annual meeting of the Full Council to elect one of its members to be chairman of the council. No member can hold the post of chairman or vice chairman of the council for more than one year unless the council, by resolution, decides to appoint a member for a second year.

## **6. Role**

- 6.1 The chairman of the council's only formal responsibility is to chair meetings of the Full Council. Throughout his/her term of office the role is non-party political. The chairman is also the council's civic head and represents the council in this capacity on civic/ceremonial occasions and at island, national and international events.

## **7. Duties**

- 7.1 The chairman and in his/her absence the vice chairman, will have the following responsibilities:
  - (i) To uphold and promote the purposes of the constitution, and after receiving advice, to interpret the constitution when necessary.
  - (ii) To preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.

- (iii) To ensure that the Full 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 to account.
- (iv) To promote public involvement in the council's activities.
- (v) To be responsible for the council's civic affairs and attend such civic and ceremonial functions as the council and he/she determines appropriate.
- (vi) In the absence of both the chairman and vice chairman members will elect a chairman for the meeting concerned by a simple majority vote.

## **8. Entitlement**

- 8.1 The chairman of the council receives support in managing civic and ceremonial duties from the resources business hub.

## **9. The Leader and Executive Members**

- 9.1 The council shall appoint a leader at its annual meeting. The leader holds office until the next meeting of annual council (i.e. 1 year). The leader is entitled to decide the size of the Executive (between 2 and 9), appoint Executive members and appoint one of those Executive member's as the deputy leader and allocate portfolios of responsibility.

## **10. Role**

- 10.1 The leader is the chairman of the Executive.
- 10.2 The Executive have to discharge or arrange for the discharge of those functions which are the responsibility of the Executive under legislation and this constitution.
- 10.3 Executive members have a personal responsibility for decisions taken in relation to, and discharging those executive functions within their remit as determined by the leader. The executive members remit is known as their portfolio.

## **11. Duties**

- 11.1 To propose collectively and individually the budget and policy framework, following consultation as appropriate.
- 11.2 To take collective decisions which are appropriately taken by the Executive as a whole.
- 11.3 To represent the council locally, nationally and internationally.
- 11.4 To attend meetings of the scrutiny committees and any sub committee and any task and finish groups as required and when invited to do so.

- 11.5 Some members will have specific statutory duties, such as the duty to safeguard and promote the well-being of children, which the relevant legislation gives to the lead member for children.

## **12. Entitlements**

- 12.1 The leader of the council and executive members receive secretarial and administrative support from the resources business hub. Support is also provided by heads of service and strategic managers as appropriate.

## **13. Chairman and members of the scrutiny committees**

## **14. Main Role**

- 14.1 To lead and co-ordinate the council's scrutiny activities in the scrutiny committees to ensure effective scrutiny of budget and policy matters and effective and efficient use of resources and positive outcomes.

## **15. Duties of the Chairman of scrutiny committees**

- 15.1 To work with the vice chairman of the committee and relevant heads of service to recommend the activities and the work programmes of the committee.
- 15.2 To be responsible for commenting upon the abridging or dis-application of the call in process ([click here](#) for more details) where decisions are urgent or not on the forward plan and ensuring that these instances are reported to the committee.
- 15.3 To present reports to meetings of Full Council and the Executive as necessary.
- 15.4 To foster and maintain a disciplined approach and encourage effective engagement by all members in the scrutiny process.
- 15.5 To promote and participate in member training on the scrutiny function.
- 15.6 To ensure that the Scrutiny Committee's contributes to the effective decision making process of the council.
- 15.7 To encourage the involvement of interested parties, stakeholders and partners.
- 15.8 To work in conjunction with council officers.
- 15.9 To provide leadership ensuring that scrutiny is member led.
- 15.10 To attend Executive meetings

## **16. Role of the members of the scrutiny committees**

- 16.1 To participate fully in meetings of the scrutiny committees and through this to scrutinize decisions of the Executive, the budget and existing policies, procedures and processes of the council, in accordance with the committee's work programme.
- 16.2 To participate, when required, in the call in procedure ([click here](#) for more details).
- 16.3 To apply, when undertaking these duties, the constitution of the council, the committee procedure rules, the access to information rules and the budget and policy framework procedure rules.
- 16.4 To undertake scrutiny functions in a constructive, positive and non-partisan way and exclusively at a strategic level.

## **17. Entitlements**

- 17.1 Scrutiny Committee's members have additional rights to access information of relevance to their areas of responsibility.
- 17.2 Further specialised training in scrutiny is provided for members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.

## **18. Audit Committee Members**

### **19. Main Role**

- 19.1 To participate in the meetings of the Audit Committee to: ensure delivery of value for money; oversee the council's financial reporting processes and to provide assurance of the adequacy of risk management structures within the council.

### **20. Duties**

- 20.1 To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- 20.2 To review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.

### **21. Entitlements**

- 21.1 Access to the external auditor, at least annually in a public meeting, and at other times by request.
- 21.2 Access to other member bodies, including the Executive.
- 21.3 Specialised training in Audit is provided for members of the committee.

**22. Regulatory Committee Members (Planning, Licensing and Appeals Committees)**

**23. Role**

23.1 To effectively discharge the council's regulatory functions in the administrative and quasi judicial areas as detailed in the terms of reference of the committees.

**24. Duties**

24.1 To determine all matters that come before the meetings in accordance with the relevant policies (local and national) and legislation and principles of natural justice in a consistent and impartial manner.

24.2 To attend training as provided by the council on these matters prior to participating in any of the work of these committees.

24.3 To follow, in undertaking these matters, the procedures and codes of practice as set out in the council's constitution.

**25. Entitlements**

25.1 Mandatory and further specialised training is provided for members of these committees.

**26. Leaders of Political Groups**

26.1 It is open to members to form political groups under the Local Government (Committees and Political Groups) Regulations 1990, if they do so then the group has to appoint a leader of that group.

**27. Role**

27.1 The leader of a political group has one formal role under the Local Government (Committees and Political Groups) Regulations 1990 and that is to be the person nominated by those members on the council wishing to form a group as their leader and the wishes of the group are taken to be those expressed by the leader.

27.2 The group leaders have an important local role in ensuring that the constitution operates effectively. The leaders meet regularly to ensure that administrative machinery (including appointments) is up to date. They also ensure an excellent flow of information about policy and performance in order to enable political debate and challenge to drive up the delivery of service improvement and efficiency.

27.3 There is a national role, within the Local Government Association (and other local government bodies) to ensure productive engagement between Island politicians and regional/national political structures.

27.4 Other duties are a matter for each group to determine.

## 28. **Entitlement**

- 28.1 The leaders of the political groups with ten or more members (in addition to their basic allowance) receive a special responsibility allowance as set out under the scheme of members allowances.



## ARTICLE 3 - CITIZENS AND THE COUNCIL

1. This is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.
- 1.1 **Voting and petitions.** Registered voters have the right to vote in elections, according to their legal entitlement.
- 1.2 **Information.** Citizens have the right to:
  - (i) attend meetings of the Full Council, the Executive, the scrutiny committees, select committees, and regulatory committees except where confidential information is likely to be disclosed;
  - (ii) find out from the forward plan what decisions will be taken by the Full Council and Executive and when;
  - (iii) see agendas, reports and background papers, and any records of decisions made by the Full Council, the Executive, scrutiny committees, select committees and regulatory committees, except where confidential information is likely to be disclosed; and
  - (iv) inspect the council's accounts as part of the annual audit and make their views known to the external auditor.
  - (v) Access to other information as explained in the access to information rules as set out in this constitution.

(Dates and times of meetings and all agendas, reports, background papers and minutes (unless confidential) are available on the council's internet pages)
- 1.3 **Participation.** Citizens have the right to ask questions during the council's question time at most meetings and contribute to discussions by the scrutiny committees at the discretion of the chairman of the meeting.
- 1.4 **Complaints.** Citizens have the right to make complaints about services to:
  - (i) the council itself under its customer complaint scheme;
  - (ii) the Ombudsman after using the council's own complaints scheme;
  - (iii) the monitoring officer about a breach of the councillor's code of conduct.
- 1.5 **Publicity and the media.** Information regarding services provided by the council to local residents will be disseminated to the media in accordance with the protocol on publicity and the media.

## 2. **Citizens' Responsibilities**

- 2.1 Citizens must not harass or be violent, abusive or threatening to councillors or officers and must comply with the procedures for public engagement at meetings.

## ARTICLE 4 - THE FULL COUNCIL

### 1. Meanings

1.1 **Policy framework.** The Full Council will be responsible for adopting or approving the following plans and strategies:

- (i) The Council's Corporate Plan;
- (ii) The Children's and Young People's Plan;
- (iii) Community Care Plan;
- (iv) Community Safety Partnership Plan;
- (v) Economic Development Policy;
- (vi) The Fire and Rescue Authority Integrated Risk Management Plan;
- (vii) Gambling Act: Statement of Licensing Policy;
- (viii) Housing Investment Plan
- (ix) The Housing Strategy;
- (x) The Local Plan;
- (xi) Local Transport Plan;
- (xii) Quality Protects Management Action Plan;
- (xiii) Sustainable Community Strategy;
- (xiv) Youth Justice Plan;
- (xv) Any plan or strategy required by law to be sent to a Minister of the Crown for approval

1.2 Any plan or strategy for which the council does not have sole responsibility for preparation, and involves action and targets to which other bodies will be contributing, shall not be amended at the final approval stage by the council unless the approval of all such appropriate parties to such an amendment has been obtained in writing.

1.3 A plan or strategy referred to above can be the subject of an amendment by the relevant chief officer which is considered, in the opinion of the monitoring officer and the chief executive (after consultation with the leader and appropriate executive member), not to be contrary to the principles of the plan or strategy and can be contained within the approved budget. Such an amendment does not require the approval of Full Council.

1.4 **Budget.** The budget is defined as:

- (i) The identification and allocation of financial resources by the Full Council, including:
  - Revenue expenditure
  - Contingency and reserve funds
  - Council tax base
  - Council tax level
  - Borrowing requirements and limits
  - Capital expenditure
  - Medium term financial plan

- (ii) Any resolution of Full Council identified by the Chief Executive as a budgetary decision;
- (iii) Any limitations to, conditions on or rules governing the management of budgets, virement between budgets, treatment of under spends, windfall income or reserves contained within the financial procedure rules.

## 2. **Functions of the Full Council**

### 2.1 Only the Full Council will exercise the following functions:

- (i) adopting and changing the constitution (other than minor amendments) as set out in Article 18 on page 69;
- (ii) approving or adopting the budget and policy framework;
- (iii) amending the policy framework or budget following recommendation from the Executive, other than minor amendments to policies which can be amended as set out in paragraph 1.3 above;
- (iv) Subject to the urgency procedure contained in the access to information procedure rules, making decisions about any matter where the Executive is proposing to make a decision which would be contrary to the policy framework or contrary to, or not wholly in accordance with the budget;
- (v) appointing and removing the leader of the council;
- (vi) appointing the chairmen of the scrutiny committees, regulatory committees and other committees;
- (vii) appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is an executive function or has been delegated by the council;
- (viii) agreeing and/or amending the terms of reference for committees and deciding on their composition;
- (ix) adopting an allowances scheme for elected members;
- (x) confirming the appointment of the head of paid services, the monitoring officer and the chief financial officer;
- (xi) adopting the code of conduct for members
- (xii) taking decisions in respect of functions which are not the responsibility of the Executive and which have not been delegated by Full Council to committees, sub-committees or officers;

- (xiii) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills;
- (xiv) and any other matters which, by law, must be reserved to the Full Council;
- (xv) to provide a means whereby councillors may ask questions of matters relating to policy and budget relevant to the council's functions and to bring forward motions for debate around policy and budget;
- (xvi) to receive reports and (if necessary) recommendations from the leader, other Executive members, the Executive, or any other committee of the council;
- (xvii) to consider reports on lawfulness and maladministration unless otherwise considered by the Executive or relevant committee;
- (xviii) to set the council tax;
- (xix) to consider any recommendations in relation to electoral matters affecting the Isle of Wight; and
- (xx) arrangements for the appointment of members of the Police and Crime Panel.

### **3. Council meetings**

#### **3.1 There are four types of Full Council meeting:**

- (i) the annual meeting;
- (ii) the budget meeting;
- (iii) ordinary meetings;
- (iv) extraordinary meetings.

and they shall be conducted in accordance with the council procedure rules in this constitution .

### **4. Responsibility for Functions**

#### **4.1 The council will maintain a list, set out in this constitution, comprising the responsibilities for the council's functions which are not the responsibility of the Executive.**

### **5. Petitions**

#### **5.1 As described in the petition scheme (see [iwight.com](http://iwight.com)) public petitions can be presented to meetings of Full Council and those containing 2,500 or more signatures will be debated by Full Council.**

## **ARTICLE 5 - THE EXECUTIVE**

### **1. Role**

- 1.1 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. Many decisions will therefore be made by the Executive, rather than the Full Council.

### **2. Terms of Reference**

- 2.1 The Executive is responsible for all functions which the law determines to be Executive functions or local choice functions.

### **3. Membership**

- 3.1 The Executive will consist of the leader of the council (who will be the chairman of the Executive) together with such other councillors as are appointed by the leader (between the statutory limits of 2 and 9).

- 3.2 The leader of the council, or when absent, the deputy leader of the council, will chair the Executive. Otherwise members present will elect a chairman for that meeting.

#### **3.3 Leader**

- (i) The leader will be a councillor elected at each annual meeting of the Full Council and he/she will hold office until the day of the next annual Full Council meeting unless, at an earlier date:
- he/she resigns from the office; or
  - he/she is no longer a councillor; or
  - he/she is removed from office by resolution of the Full Council. Such a resolution to be a motion of "No confidence in the leader" submitted in accordance with Procedure Rule 9 of Procedure Rules for the Regulation of Procedures.
  - That where, in accordance with the paragraph above, a leader has been removed by resolution then a new Leader shall be elected either at the meeting at which the leader is removed from office, or at a subsequent meeting of Full Council.

#### **3.4 Other executive members**

- (i) Other executive members shall be appointed by the leader. They shall hold office until the next annual meeting of the Full Council, unless in the meantime:

- they resign from office; or
  - they are no longer councillors; or
- (ii) they are removed from office, either individually or collectively, by the leader of the council.

### 3.5 Deputy Leader

- (i) The leader may appoint one of the members of the Executive as a deputy leader. The deputy leader may exercise all the functions of the leader where that position is vacant or where the leader is absent or is otherwise unable to act.

### 3.6 Portfolios of responsibility

- (i) The leader may agree that individual members of the Executive shall take a specific remit for different aspects of the council's work. The details of the allocated remit shall be known as the portfolio of responsibilities.
- (ii) The proper officer will maintain and publish a list, from time to time, of the executive members, their titles and portfolios of responsibility.

## 4. **Proceedings of the Executive**

- 4.1 Proceedings of the Executive shall take place in accordance with the Procedure Rules asset out in this constitution.

## 5. **Quorum**

- 5.1 Quorum of the Executive will be 4.

## 6. **Meeting frequency and length**

- 6.1 Meetings of the Executive will be held at a time and place determined by the Executive.

## 7. **Access to Information**

- 7.1 Meetings of the Executive will be held in public unless the law requires or where allowed Executive decides it is expedient to do so, the press and public to be excluded.
- 7.2 If the press and public are excluded from any meeting the chairman of the Scrutiny Committee, if in attendance, will be regarded as a member of the Executive with equal rights to information as members of the Executive.

## **8. Agenda**

- 8.1 The leader of the council will determine, in consultation with the proper officer, the agenda for each Executive meeting. Usually items will only be placed on the agenda for the Executive if they have appeared on the Forward Plan – though special urgency provisions may apply in exceptional circumstances (see the Council's Decision Making Process on page 162).

## **9. Speaking at Executive**

- 9.1 Members of the public have the right to ask questions at each Executive meeting.
- 9.2 Members of the council may ask questions about budget and policy, at a strategic level, at each Executive meeting.
- 9.3 Any other members of the council in attendance will be provided with an opportunity to speak on each item before the vote is taken.

## **10. Voting**

- 10.1 Voting will be by a show of hands and be recorded as a named vote unless the matter is a procedural matter. A simple majority prevails and in the event of a tied vote the chairman will have a casting vote.

## **11. Isle of Wight Youth MP and Youth Council**

- 11.1 The Isle of Wight Youth MP will be able to attend (unless the press and public have been excluded), and speak at, any meeting of the Executive in a non-voting consultative capacity.
- 11.2 The Isle of Wight Youth Council will be entitled to appoint two of their members (in a non voting capacity) to the Executive to be a point of consultation between the Executive and the Youth Council. These two shall be able to attend (unless the press and public have been excluded) and speak at any meeting of the Executive in a non-voting consultative capacity.

## **12. Officer contact**

- 12.1 Democratic Services – 01983 821000 email: [Democratic.Services@iow.gov.uk](mailto:Democratic.Services@iow.gov.uk)



## **ARTICLE 6 - SCRUTINY FUNCTION**

### **1. Role**

- 1.1 The council is required by law to discharge certain scrutiny functions in relation to Executive decision making, health, flooding and crime. These functions are an essential component of local democracy and are undertaken by the scrutiny committee or committees that the Full Council may establish. The scrutiny function also contributes to the development of council budget and policies and holds the Executive to account for its decisions.
- 1.2 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants, visitors and businesses. The scrutiny committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- 1.3 The scrutiny committees may also with the agreement of the chief executive on scope, timing and resources establish task and finish groups (provided resources are available) to undertake specific work as necessary.
- 1.4 Full Council has currently established a Scrutiny Committee and a Children's Committee (the latter undertaken the scrutiny function for children's services)

### **2. Terms of Reference**

#### **2.1 Scrutiny Committee**

- (i) To perform the statutory scrutiny functions that are not otherwise expressly delegated to another committee including those relating to crime and flooding.
- (ii) To manage and co-ordinate the work undertaken by the committee and any task and finish groups.
- (iii) To be responsible for, and operate, the system of call in to review executive decisions as set out in the council's decision making process.
- (iv) To consider any councillor call for actions on general local government matters.
- (v) To have an overall view on budget and performance management across the council.
- (vi) To review any policies of the Council as requested by the relevant Executive member or any that the Scrutiny Committee consider to be of particular importance.
- (vii) To monitor progress with relevant action plans.
- (viii) To enable the relevant Executive members to report on key issues and items on the forward plan.

- (ix) To be responsible for dealing with petitions as outlined in the Council's Petition Scheme (see [iwight.com](http://iwight.com)).
- (x) The committee has no delegated authority to make formal decisions on any matters (other than recommendations or decisions on how they will consider a matter).
- (xi) The committee shall consider and hear whatever advice and information is necessary (including that from outside the council) to assist it in this work.
- (xii) To establish sub committee's as necessary (it has currently established Health and Adult Social Care Scrutiny Sub Committee that has the statutory health scrutiny function)

## 2.2 Children's Committee

- (i) To assist in the development of future policy for the council to enable the relevant key priority contained within the Corporate Plan to be delivered.
- (ii) To review existing policies to ascertain if changes are required to ensure continued effective and efficient service delivery.
- (iii) To assist the Council in the development of its budget and policy framework by in depth analysis of policy issues.
- (iv) To engage with relevant partners and stakeholders on the development and review of policies required in connection with the delivery of the elements of the Corporate Plan related to children's services and school improvement.
- (v) To consider mechanisms to encourage and enhance community participation in the development of policy options and service delivery.
- (vi) To be responsible for, and operate, the system of call in to review executive decisions on matters related to the delivery of children's services and school improvement, as set out in the council's decision making process.
- (vii) To have a view on budget and performance management specifically related to children's services and school improvement.
- (viii) To monitor progress with relevant action plans.
- (ix) To enable the relevant executive member to report on key issues and items on the forward plan.
- (x) The committee has no delegated authority to make formal decisions on any matters (other than recommendations or decisions on how they will consider a matter).
- (xi) The committee shall consider and hear whatever advice and information is necessary (including that from outside the council) to assist it in this work.

### 3. **Membership**

**No executive member will be a member of scrutiny committees or sub committees.**

#### 3.1 Scrutiny Committee

10 members of the council appointed on a politically proportionate basis, comprising:

- (i) A chairman (appointed by Full Council) who is not a member of the majority political group;
- (ii) Ten members of the council (including the chairman of the committee);
- (iii) A voting co-opted member appointed by the Isle of Wight Association of Local Councils for a period to coincide with the scheduled council elections.
- (iv) The Isle of Wight Youth MP will be entitled to attend, and speak at, any meeting of the Scrutiny Committee in a non-voting consultative capacity.
- (v) The Isle of Wight Youth Council will be entitled to appoint two of their members (in a non-voting capacity) to be a point of consultation between the committee and the Youth Council these can attend and speak at any meeting of the Scrutiny Committee.

#### 3.2 Children's Committee

- (i) 9 members of the council appointed on a politically proportionate basis.
- (ii) The statutory education co-optees (these are the representatives appointed by the two dioceses and two parent governor representatives, who are elected for a four year term, from the parent governors on the Island) who will also have a vote on any education matters.
- (iii) The chairman of the Children's Committee shall be appointed by the Full Council.

### 4. **Proceedings and Call-in**

- 4.1 The proceedings of the scrutiny committees (and sub committees) shall be governed by the procedure rules set out in this constitution.
- 4.2 Any two members of the Scrutiny or Children's Committee and one other member of the council may sign a call-in notice in relation to any decision by the Executive that relates to the respective committee terms of reference for scrutiny. The detailed arrangements for this are set out on page 165 of this Constitution.

## **5. Quorum**

- 5.1 Quorum of the scrutiny committees or sub committee will be 3 or one-quarter; whichever is greater, of the voting membership. In the absence of both the chairman and vice chairman the committee/sub committee will elect a chairman for that meeting.

## **6. Meeting Frequency and length**

- 6.1 Scrutiny and its sub committees meetings will be held at a time to be determined by the committee or sub committee but the presumption is that these meetings will be held at a time when the public will be most likely to be able to attend. Scrutiny Committee will usually meet two days before the Executive to consider (amongst other items) matters due to be considered by the Executive.
- 6.2 There will be a presumption that no agenda will require more than two hours to complete.
- 6.3 Children's Committee shall meet 6 times a year at a time and place determined by it.

## **7. Access to Information**

- 7.1 Meetings of the scrutiny committees will be held in public unless the law requires or where allowed the committees decide it is expedient to do so, the press and public to be excluded.

## **8. Agenda**

- 8.1 The chairman of the relevant committee or sub committee will, in consultation with the proper officer, agree an agenda for each meeting. Matters on the agenda must relate to the Council's corporate plan objectives and deal with budget, policy and performance and not individual ward issues.
- 8.2 In deciding what items should be included on an agenda consideration must be given to the resource implications involved.
- 8.3 The committees should have an agreed workplan.
- 8.4 The chairmen of the committee and any sub committees will liaise to ensure that there is no duplication in any workplan issues.
- 8.5 The chairman may request the attendance of the appropriate Executive member at a meeting where this would assist in the discussion on an agenda item.
- 8.6 Any member of the committee may place an item on the agenda by sending such an item to the proper officer at least 10 days before the meeting. The proper officer will discuss the proposed motion with the chairman of the Scrutiny Committee before the motion is placed on the agenda for the meeting.

**9. Attendance and Speaking at the scrutiny committees/sub committees**

- 9.1 The chairmen have an obligation to enable members of the public, stakeholders and community representatives to make representations to the committee or sub committee in order to assist in the work programme and/or to undertake specific enquiries.

**10. Enquires and Reports**

- 10.1 Enquiries will be time limited, to published terms of reference and lead to recommendations which are directed to the Full Council, Executive, executive members, or where health related to the appropriate health body and are clear, measurable, achievable, resourced, time bound and based on evidence received.
- 10.2 The scrutiny committees/ sub committees may take reports to the Executive, executive members, or the Full Council. Responses are to be reported back to the committee/sub committee.

**11. Task and Finish Groups**

- 11.1 The scrutiny committees may establish task and finish groups at any one time with the agreement of the chief executive on resources and timing. This is to ensure sufficient resources are available to undertake specific work as necessary. These groups will be time limited, have clear terms of reference, may include members other than those on the establishing Committee and will not be committees or sub-committees under the law.

**12. Voting**

- 12.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

**13. Officer contact**

- 13.1 Democratic Services – 01983 821000 email: Democratic.Services@iow.gov.uk

## **ARTICLE 7 - SELECT COMMITTEES**

### **1. Role**

- 1.1 The Council has appointed two select committees (one for Economy and Tourism and the other for Environment and Transport) to help develop and review policy and, where appropriate, make recommendations to full Council, the Executive or head of service on issues relating to the delivery of key priorities contained in the Corporate Plan. These do not have the power of call-in.

### **2. Terms of Reference**

- 2.1 To assist in the development of future policy for the council to enable the key priorities contained within the Corporate Plan to be delivered.
- 2.2 To review existing policies to ascertain if changes are required to ensure continued effective and efficient service delivery. The Select Committee will consider information related to performance in relation to the service areas coming within its remit.
- 2.3 To assist the Council in the development of its budget and policy framework by in depth analysis of policy issues.
- 2.4 To engage with relevant partners and stakeholders on the development and review of policies required in connection with the delivery of the Corporate Plan.
- 2.5 To consider mechanisms to encourage and enhance community participation in the development of policy options.
- 2.6 The select committees have no delegated authority to make formal decisions on any matters (other than recommendations or decisions on how they will consider a matter).
- 2.7 The select committee shall consider and hear whatever advice and information is necessary (including that from outside the council) to assist it in this work.

### **3. Membership**

- 3.1 The Select Committees shall comprise 9 members of the council appointed on a politically proportionate basis.
- 3.2 The chairmen of the Select Committees shall be appointed by the Full Council.

### **4. Proceedings**

- 4.1 The procedure rules for the regulation of proceedings shall apply to meetings of the Select Committee.

## **5. Quorum**

5.1 The quorum for Select Committees will be four members.

## **6. Meeting Frequency and Length**

6.1 The select committees will normally met twice a year at a time and place determined by each select committee. Each meeting will not usually exceed 2 hours in length.

## **7. Access to information**

7.1 Meetings will be held in public in accordance with the council access to information rules.

## **8. Agenda**

8.1 The agenda for the select committees shall be agreed by the relevant select committee chairman in consultation with the proper officer. Matters on the agenda must relate to the Council's corporate plan objectives and deal with budget, policy and performance and not individual ward issues. In deciding what items should be included on an agenda consideration must be given to the resource implications involved.

8.2 The select committee should have an agreed workplan. The chairmen of the Select Committees will liaise with the chairmen of the scrutiny committees/ sub committee to ensure that there is no duplication in any workplan issues.

8.3 The chairman may request the attendance of the appropriate Executive member at a meeting where this would assist in the discussion on an agenda item.

## **9. Task and finish groups**

9.1 Each select committee may establish task and finish groups with the agreement of the chief executive on resources and timing. This is to ensure sufficient resources are available to undertake specific work as necessary. These groups will be time limited, have clear terms of reference, may include members other than those on the Select Committee. Such task and finish groups will not be committees or sub committee under the law. In addition the chairman of the scrutiny committees must be consulted to ensure that there is no duplication in the work of that committee.

## **10. Voting**

10.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

## **11. Officer contact**

11.1 Democratic Services – 01983 821000 email: [Democratic.Services@iow.gov.uk](mailto:Democratic.Services@iow.gov.uk)

## ***ARTICLE 8 - PLANNING COMMITTEE, LICENSING COMMITTEE AND APPEALS COMMITTEE (THE REGULATORY COMMITTEES)***

### **1. Role**

- 1.1 Full Council will appoint a Planning Committee, a Licensing Committee and Appeals Committee (collectively referred to as the Regulatory Committees) to consider a range of various requests for approvals required by the Isle of Wight Council, the detailed terms of reference are set out below.

### **2. Terms of Reference**

#### **2.1 Planning Committee (12 members)**

- (i) To exercise the powers and duties of the council, within the corporate policies and strategies of the council, in relation to:
- Its role as planning authority in its development control and planning functions, and
  - The extraction of minerals, the clearance and reclamation of derelict land, subsequent after use of sites for waste disposal and restoration of site,
- (ii) The committee will take decisions only where:
- the law or council policy requires the decision to be taken by elected members, or
  - an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.

#### **2.2 Licensing Committee (10 members)**

- (i) The council will appoint a Licensing Committee to deal with any application or appeal in relation to the licensing or grant of consent or permission where the law requires the decision to be taken by elected members, under the Licensing Act 2003 and Gambling Act 2005, and therefore is not a council committee convened under s101 Local Government Act 1972
- (ii) The council will also appoint a Licensing Committee under section 101 of the Local Government Act 1972 to consider and determine any application or appeal in relation to the licensing or grant of consent or permission where
- the law or council policy requires the decision to be taken by elected members.
  - an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.



- the licence, consent or permission is contained within the list set out below

OR is not otherwise specifically delegated to another part of the council.

- (iii) The council will appoint the same elected members (and chairman) on both the Licensing Committees. For the purposes of day to day business the council shall refer to both committees as: Licensing Committee.
- (iv) To adopt policy in relation to the licensing or grant of consent or permission where the law allows the Licensing Committee to determine that policy.
- (v) To determine licensing functions include the grant, renewal, refusal, revocation, variation, cancellation, imposition of conditions, (and appeals against any such action) and determination of reviews in relation to the following regulated activities:

Acupuncture, Tattooing, Ear piercing and Electrolysis. Activities within the remit of the Gambling Act 2005. Caravan Site.

Activities within the Remit of the Licensing Act 2003. Dangerous Wild Animals.

Breeding of Dogs.

Rag Flock and other Filling Materials. Game Licenses.

Guard Dogs.

House to House Collections. Pet Shops.

Pleasure boats and boatmen. Regulation of Street Collections. Street Trading.

Zoos.

Animal Boarding Establishments. Sunday Trading.

Riding Establishments. Scrap Metal Dealers. Sex Establishments. Poisons, Explosives. Sports Grounds. Performing Animals.

Open Air Events under the Isle of Wight Act. Hackney Carriages and Private Hire Vehicles. Movement of Animals.

and any other registration or licensing function not specifically delegated elsewhere in this constitution, or by the law.

- (vi) To undertake the functions set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Order 2000 (generally, those functions which are not to be carried out by the authority's executive save where these functions are carried out by council or have been delegated to officers).
- (vii) The above functions shall be delegated to a sub committee of 3 members (drawn from the membership of the committee) unless the following criteria apply :
  - Large events where the expected number of attendees, staff and performers will exceed 5,000 persons at any one time;
  - Applications or reviews where the sub committee decide that the matter requires consideration by the full committee;

- Applications or reviews which in the opinion of the Head of Place, in consultation with the chairman of the committee, should be considered by the full committee.

(viii) Sub Committees

- The Licensing Committee may also appoint a Determinations and Appeals Panel. Each panel will have a membership of 3 and the quorum shall be 3.
- The panels will carry out all the functions of the committee which require a decision on a grant, renewal, refusal, revocation, review, variation, cancellation, or imposition of conditions, (and appeals against any such action) and any other appeals within the remit of the committee.

## 2.3 Appeals Committee (10 members)

- The Appeals Committee is established under section 101 of the Local Government Act 1972.
- To determine appeals against decisions of the authority where the law, or council policy, requires the appeal to be determined by elected members in relation to the following functions:

Awards

School Transport Curriculum Complaints Adoption and Fostering Registration of Homes

Housing Benefit and Council Tax Appeals

Business Rate Hardship Rights of Way Orders Highway Orders

Tree Preservation Orders

Approval of premises for marriage and civil partnership ceremonies

When, not dealt with by the monitoring officer under their delegated powers, to consider dispensations from the restrictions to participate in a matter where a member has a disclosable pecuniary interest.

Consideration of an investigating officer's report where a member is found to have breached the code of conduct

Appeals by employees of the council against a decision to designate their posts as a politically restricted post

Any other function involving an appeal process not specifically delegated elsewhere in this constitution, or by the law, where no other delegation exists.

- To oversee arrangements, including the appointment of the pool of members from which independent appeal panels are selected by the clerk to the Education Appeals Committee, for school exclusions, admissions and special education needs appeals.
- The above functions shall be delegated to a sub committee of any 3 of the 10 members.

### **3. Membership**

- 3.1 Both regulatory committees will have a membership of 10 with all members being appointed in accordance with the rules on political proportionality.
- 3.2 Every member of the regulatory committees shall attend the training provided prior to participating in the work of the committees of their sub committees.
- 3.3 The chairman and vice chairman will be appointed by the Full council (unless Full Council decides not to). If the chairman is present he will preside and in his absence the vice chairman shall preside. If both the chairman and vice chairman are absent the committee will elect a chairman for the meeting.

### **4. Proceedings**

- 4.1 The procedure rules for the regulation of proceedings shall apply to meetings of the regulatory committees.
- 4.2 Additionally there is a detailed Planning, Licensing and Appeals Committees Rules ([click here](#)), Code of Practice for Members and Officers Dealing with Licensing Matters (see [iwight.com](#)) and a similar Code of Practice for Members and Officers Dealing with Planning Matters (see [iwight.com](#)), these set out some detailed procedures that the relevant Committee must follow.

### **5. Quorum**

- 5.1 The quorum of Planning Committee, the Licensing Committee and Appeals Committee will be 4. If the chairman is absent the meeting will be chaired by the vice chairman, if there is no vice chairman or they are absent then the meeting will elect one of the members present to chair the meeting.

### **6. Meeting Frequency and Length**

- 6.1 Meetings will commence at a time that in the opinion of the Chairman meets the needs of applicants, objectors or other interested parties.

### **7. Access to information**

- 7.1 All meetings of the regulatory committees shall be held in public unless there are grounds for excluding the press and public, as set out in the access to information procedure rules or in accordance with legislation.

### **8. Agenda**

- 8.1 The agenda for all Regulatory Committees will be determined by the matters that arise as determined by the relevant Head of Service.

9. **Voting**

9.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

10. **Officer contact**

10.1 Democratic Services – 01983 821000 email: Democratic.Services@iow.gov.uk

## ARTICLE 9 - EMPLOYMENT COMMITTEE

### 1. **Role**

- 1.1 To oversee, advise on and determine a range of matters relating to the employment of staff and to appoint chief officers.

### 2. **Terms of Reference**

- 2.1 To arrange for the appointment of the council's head of paid service and to make recommendations to the Full Council in this respect.
- 2.2 To make recommendations to the Full Council in respect of the appointment of the head of paid service, the monitoring officer and section 151 officer.
- 2.3 To make recommendations to Full Council in respect of any actions relating to the conduct of the head of paid service, the monitoring officer and section 151 officer and chief officers.
- 2.4 To take decisions affecting the remuneration, terms and conditions of service of the head of paid service.
- 2.5 To make recommendations to full council on the management structure of the statutory and non-statutory chief officers.
- 2.6 In consultation with the head of paid service and relevant Executive member(s), take decisions affecting the remuneration and terms and conditions of service of Chief Officers
- 2.7 To agree annual targets for the head of paid service against which personal performance can be reviewed and monitored in accordance with the council's personal development review process.
- 2.8 To be consulted on any proposal to appoint an interim chief officer, including the associated remuneration package, and to carry out regular reviews of the agreed contractual outputs and performance outcomes.
- 2.9 To comment on policy direction in advance of the preparation or review of any policies in relation to the following:
  - (i) Recruitment, selection and appointment
  - (ii) Redundancy and redeployment
  - (iii) Capability and conduct
  - (iv) Attendance management
  - (v) Equality and diversity
  - (vi) Industrial and employee relations identified by the head of human resources as requiring a specific policy
  - (vii) Other areas of human resource policy as required

- 2.10 To advise Full Council and Executive on the requirements for, and the availability of, human resources necessary for the fulfilment of the council's policies.
- 2.11 To undertake any other functions relating to employment or human resource matters as directed by Full Council or Executive.
- 2.12 To consider grievance and disciplinary appeals relating to chief officer posts and employee appeals in cases of dismissals that arise out of disciplinary or capability proceedings.
- 2.13 The committee may establish a sub committee of three members to consider matters relating to grievance and disciplinary appeals.
- 2.14 To agree the recruitment to all posts at chief officer level or above, except the posts referred to in paragraph 2.2 above. In the event of such agreement being given the committee can establish a politically proportionate sub committee of five members, quorum of three, to make appointments to all such posts. Membership of this sub committee can be drawn from outside the Employment Committee.
- 2.15 The sub committee established for each appointment referred to in paragraph 2.14 above will determine the process to be followed – such processes to be consistent with the law and this constitution.
- 2.16 In the event of a post at chief officer level or above being determined as a jointly funded post between the Council and a partner organisation to agree to the recruitment and, where agreement is given, the committee can agree the composition of the sub committee which may include partners from the other organisation.

### **3. Membership**

- 3.1 The committee will comprise six members of the council appointed on a politically proportionate basis.
- 3.2 The head of paid service and head of resources will attend in an advisory capacity except when their own performance or remuneration is being discussed.
- 3.3 If not attending in his or her own right, the appropriate Executive member(s) may attend when the objectives or remuneration of chief executive are discussed.
- 3.4 All members will attend relevant training.

### **4. Proceedings**

- 4.1 The procedure rules for the regulation of proceedings shall apply to meetings of the Employment Committee and any sub committees it may establish.
- 4.2 Additionally, there are detailed Officer Employment Rules ([click here](#)) which set out details in relation to the appointment and dismissal of certain staff that must also be followed.

5. **Quorum**

5.1 The quorum of the Employment Committee will be three elected members.

6. **Meeting Frequency and Length**

6.1 The committee will meet bi-annually but additional meetings will be arranged with the approval of the chairman of the committee, if required.

7. **Access to information**

7.1 All meetings of the employment committee shall be held in public unless there are grounds for excluding the press and public, as set out in the access to information procedure rules or in accordance with legislation.

8. **Agenda**

8.1 The agenda for the Employment Committee will be determined by the Proper Officer in consultation with the chair of the committee.

9. **Voting**

9.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

10. **Officer contact**

10.1 Democratic Services – 01983 821000 email: Democratic.Services@iow.gov.uk

## ARTICLE 10 - AUDIT COMMITTEE

### 1. Role

- 1.1 To provide independent assurance of the adequacy of the risk management framework and the associated control environment including independent scrutiny of the council's financial and non-financial performance to the extent that it affects the council's exposure to risk and weakens the control environment.
- 1.2 To oversee the financial reporting process, including the external audit of the council's accounts and any matters arising from that audit.

### 2. Terms of Reference

#### 2.1 Internal and External Audit Activities

- (i) Contribute to the development of the annual internal audit plan, ensuring that it appropriately reflects the council's risk profile.
- (ii) Approve the annual Internal audit plan.
- (iii) Consider periodic reports on the performance of internal audit.
- (iv) Review summary internal audit and external audit reports and the main issues arising from them including seeking assurance that action has been taken where necessary and to recommend further audit enquiries are added to the audit plan where appropriate.
- (v) Consider the head of internal audit's annual report and opinion and the level of assurance given against the annual governance statement published with the annual accounts.
- (vi) Monitor the effectiveness of relationships between the council's internal and external auditors
- (vii) Commission or require further enquiries into appropriate issues referred to it by the head of paid service, chief financial officer, internal audit or external audit
- (viii) Consider the reports of external audit including the annual audit letter, value for money assessment, the annual report to those charged with governance and other specific reports as agreed with the external auditor.

#### 2.2 Regulatory Framework

- (i) Consider the effectiveness of the council's arrangements for risk management and corporate governance.
- (ii) Consider the effectiveness of the council's anti-fraud and corruption strategies and 'whistle-blowing' policy.
- (iii) Monitor through periodic reports progress towards addressing the issues identified within the annual governance statement.
- (iv) Consider and approve changes to the council's financial regulations and contract standing orders
- (v) Review the annual treasury management strategy and consider half yearly and annual reports on the activities of the treasury management function



- (vi) Consider the council's annual governance statement and ensure that it properly reflects the council's risk environment.

## 2.3 Accounts

- (i) Review and approve the council's annual accounts, including those of the council's pension fund, and in particular that appropriate accounting policies have been followed, and where there are concerns arising from the accounts that these are appropriately addressed and/or brought to the attention of the Executive or Full Council
- (ii) Review and monitor actions arising from the committee's review of the accounts or the external auditor's annual governance report

## 2.4 General

- (i) The committee can commission and submit reports directly to Executive and/or Full Council as necessary.

## 3. Membership

- 3.1 Audit Committee will comprise of 7 elected members, on a politically proportionate basis but selected for their interest in and knowledge of audit committee business. Additionally, 2 independent non voting co-opted members may be appointed. Any such appointment should be made on the basis of skill, knowledge, qualification and experience relevant to the role of the committee.
- 3.2 Members nominated by group leaders should have a background in accounting or financial control or be able to demonstrate a commitment to and interest in the finances of the council. Audit Committee members should not be executive members and ideally also not be members of the Scrutiny Committee.
- 3.3 The chairman shall be appointed on an annual basis by the Full Council. In the absence of the chairman at the meeting a chairman for the day shall be elected from the committee membership (excluding any co-opted member).

## 4. Proceedings

- 4.1 The procedure rules for the regulation of proceedings shall apply to meetings of the Audit Committee.

## 5. Quorum

- 5.1 The quorum of the Audit Committee will be 3 members.

## 6. Meeting Frequency and Length

- 6.1 The committee will meet on a timetable to be agreed by the committee.

7. **Access to information**

- 7.1 All meetings of the audit committee shall be held in public unless there are grounds for excluding the press and public, as set out in the access to information procedure rules or in accordance with legislation.

8. **Agenda**

- 8.1 The agenda for the Audit Committee will be determined by the Proper Officer in consultation with the chair of the committee.

9. **Voting**

- 9.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

10. **Officer contact**

- 10.1 Democratic Services – 01983 821000 email: Democratic.Services@iow.gov.uk

# **ARTICLE 11 - ISLE OF WIGHT PENSION FUND COMMITTEE**

## **1. Terms of Reference**

- 1.1 Annually, to elect a chairman (when Full Council has decided not to so appoint)
- 1.2 To hold an annual meeting of employer representatives
- 1.3 To periodically review the funding strategy statement and statement of investment principles of the fund
- 1.4 To determine strategic investment policy
- 1.5 To appoint, and regularly monitor performance of fund managers, investment advisors and actuaries
- 1.6 To periodically review the structure of investment management for the fund and implement new arrangements as appropriate
- 1.7 To periodically review and set limits for the overall asset allocation of the fund
- 1.8 To periodically review issues which have an impact on the fund's long term solvency including those issues over which the administering body has discretion
- 1.9 To tender and/or re-tender contracts for the provision of all actuarial and investment management services required by the fund in accordance with the council's standing order.
- 1.10 To undertake member training on investment issues
- 1.11 To consider applications for admitted body status
- 1.12 To exercise all discretionary functions of a pension scheme manager including those relating to the fire pension scheme.
- 1.13 Annual Report
  - (i) The panel will produce an annual report on the performance of the investment fund and this will be circulated to all members and will be formally reported to the audit committee.

## **2. Membership**

7 elected members, appointed on a political proportionality basis.

1 non-voting employee representative nominated by Unison.

1 non-voting representative nominated by admitted bodies (external companies who have staff who are members of the pension scheme as a result of staff transfers to them).

## 2.1 In Attendance

Chief executive (or his nominated representative) Leader of the council can attend as necessary

2 representatives as required from pension fund investment managers

1 representative from investment advisors

1 administrative support

1 representative from actuaries will be invited to attend as required eg to consider annual report and after triennial fund valuations

## 3. **Proceedings**

3.1 The procedure rules for the regulation of proceedings shall apply to meetings of the Isle of Wight Pension Fund Committee.

## 4. **Quorum**

4.1 The quorum for the Committee is 3 elected members.

## 5. **Meeting Frequency and Length**

5.1 The committee will meet bi-annually but additional meetings will be arranged with the approval of the chairman of the committee, if required.

## 6. **Access to information**

6.1 All meetings of the committee shall be held in public unless there are grounds for excluding the press and public, as set out in the access to information procedure rules or in accordance with legislation.

## 7. **Agenda**

7.1 The agenda for the committee will be determined by the Proper Officer in consultation with the chair of the committee.

## 8. **Voting**

8.1 Any vote shall be by show of hands. A simple majority prevails and in the event of a tied vote the chairman has a casting vote.

## 9. **Officer contact**

9.1 Democratic Services – 01983 821000 email: Democratic.Services@iow.gov.uk

## **ARTICLE 12 - ISLE OF WIGHT PENSION BOARD COMMITTEE**

### **1. Terms of Reference and Delegated Authorities**

#### **1.1 Introduction**

- (i) The purpose of this document is to set out the terms of reference for the local Pension Board of the Isle of Wight Council Pension Fund.

#### **1.2 Role of the Local Pension Board**

- (i) The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is to –
  - Assist Isle of Wight Council Administering Authority as Scheme Manager; –
    - to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS
    - to secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator
    - in such other matters as the LGPS regulations may specify
  - Secure the effective and efficient governance and administration of the LGPS for the Isle of Wight Council Pension Fund.
  - Provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest.
- (ii) The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- (iii) The Pension Board will also help ensure that the Isle of Wight Council Pension Fund is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- (iv) The Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

#### **1.3 Appointment of members of the Pension Board**

- (i) The process for selecting members of the Pension Board is set out below.

- (ii) The Pension Board shall consist of 4 members and be constituted as follows:  
  - 2 employer representatives;
  - 2 scheme member representatives.
- (iii) One of the employer representatives shall be an elected member of the Isle of Wight Council. The other will be selected by the other employers of the fund, following nominations.
- (iv) The scheme member representatives shall be appointed by UNISON, who will be responsible for arranging their own election of suitable candidates and advise the Isle of Wight Council of this so that it can be assured that it is open and transparent.
- (v) Pension Board representatives must not also participate in or act as members of the Isle of Wight Council Pension Fund Committee.
- (vi) The Chair of the local Pension Board will be determined by the Board on an annual basis.
- (vii) It will be the role of the Chair to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.
- (viii) Each employer representative and scheme member representative so appointed shall serve for a fixed 2 year period which can be extended for further period(s) subject to re-nomination.
- (ix) Each Board member is expected to attend all Board meetings during the year. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Scheme Manager.
- (x) Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members.
- (xi) The Board may, with the approval of the Scheme Manager, co-opt persons who are not members of the Board to serve on sub committees, particularly where this would add skills and experience.
- (xii) Notwithstanding the appointment of co-opted members, the majority of the Board shall be comprised of employer and scheme member representatives, represented in equal number.
- (xiii) There will be no provision to allow for substitute members to be appointed.

#### 1.4 Quorum

- (i) The Board shall have a formal quorum of 3.

## **1.5 Conflicts of Interest**

- (i) The policy for identifying conflicts of interest will be based upon the Council's Code of Conduct and relevant guidance issued by the Pensions Regulator.
- (ii) No one may be appointed to the Board who has a conflict of interest. It is the responsibility of the board member to provide any information required by the Scheme Manager in order to determine whether a conflict exists.

## **1.6 Board Review Process**

- (i) The Board will undertake each year a formal review process to assess how well it and its sub-committees, if any, and the members are performing with a view to seeking continuous improvement in the Board's performance.

## **1.7 Advisers to the Board**

- (i) The Board may be supported in its role and responsibilities through the appointment of advisers and shall, subject to any applicable regulation and legislation from time to time in force, consult with such advisers to the Board and on such terms as it shall see fit to help better perform its duties. Any cost associated with the use of advisers to the Board must first be agreed with the Administering Authority.
- (ii) The Board shall ensure that the performances of the advisers so appointed are reviewed on a regular basis.

## **1.8 Knowledge and Skills**

- (i) A member of the Pension Board must be conversant with -
  - The legislation and associated guidance of the Local Government Pension Scheme (LGPS).
  - Any document recording policy about the administration of the LGPS which is for the time being adopted by the Isle of Wight Council Pension Fund.
- (ii) A member of the Pension Board must have knowledge and understanding of –
  - The law relating to pensions
  - The Pension Regulator's code of practice, and
  - Any other matters which are prescribed in regulations.
- (iii) It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.

- (iv) In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.
- (v) Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.
- (vi) Pension Board members will comply with the Scheme Manager's training policy. Members of the Pension Board will be expected to attend training sessions held before each Pension Fund Committee meeting, to support the development of their knowledge and skills, as well as any other training sessions held specifically for Board members.

## **1.9 Board Meetings – Notice and Minutes**

- (i) The Scheme Manager shall give notice to all Pension Board members of every meeting of the Pension Board. The Scheme Manager shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board or Board committee, they shall be circulated to all members and posted on the Isle of Wight Council website.
- (ii) There will be at least 1 Pension Board meeting a year, to be held between the May and July meetings of the Isle of Wight Pension Fund Committee. Other meetings may be convened with due notice as the Board determines.

## **1.10 Remit of the Board**

- (i) The Pension Board must assist the Scheme Manager with such other matters as the scheme regulations may specify. It is for scheme regulations and the Scheme Manager to determine precisely what the Pension Board's role entails.

## **1.11 Standards of Conduct**

- (i) The role of Pension Board members requires the highest standards of conduct and therefore the "seven principles of public life" will be applied to all Pension Board members together with the code of conduct as contained within the constitution of the Isle of Wight Council.

## **1.12 Decision making**

- (i) Each member of the Pension Board will have an individual voting right but it is expected the Pension Board will as far as possible reach a consensus. If there are equal numbers of votes for and against the Chair of the Pension Board will have a second or casting vote which will be reported to the Scheme Manager.



### **1.13 Publication of Pension Board information**

- (i) Scheme members and other interested parties will want to know that the Isle of Wight Council Pension Fund is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, the governance and administration of the scheme and requirements of the Pension Regulator.
- (ii) Up to date information will be posted on the section relating to the Isle of Wight Council Pension Fund on the Isle of Wight Council's website showing:
  - The names and information of the Pension Board members
  - How the scheme members are represented on the Pension Board
  - The responsibilities of the Pension Board as a whole
  - The full terms of reference and policies of the Pension Board and how they operate
  - The Pension Board appointment process
  - Who each individual Pension Board member represents
  - Any specific roles and responsibilities of individual Pension Board members.
- (iii) Pension Board papers, agendas and minutes of meetings will be published on the Isle of Wight Council Pension Fund website. These may at the discretion of the Scheme Manager be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.
- (iv) The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

### **1.14 Accountability**

- (i) The Pension Board will be collectively and individually accountable to the Scheme Manager.

### **1.15 Expense Reimbursement**

- (i) Only expenses incurred by a Board member in attending an activity approved by the Board will be paid by the Council.

### **1.16 Reporting Breaches**

- (i) Any breach brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document.

## 1.17 Definitions

- (i) The undernoted terms shall have the following meaning when used in this document:

<i>“Chair”</i>	Reference to duties to be performed, or authorities exercised, by the Chair
<i>“Elected member”</i>	A councillor of the Isle of Wight Council, elected by due democratic process.
<i>“Employer”</i>	Organisations external to the Council whose employees are eligible to be members of the Isle of Wight Council Pension Fund, either under Schedule 2, part 1 of Local Government Pension Scheme (Administration) Regulations 2008, or by virtue of an admission agreement with the administering authority.
<i>“LGPS”</i>	The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009
<i>“Pension Board” or “Board”</i>	Means the local Pension Board for the Isle of Wight Council administering authority for the Isle of Wight Council Pension Fund as required under the Public Service Pensions Act 2013
<i>“Scheme”</i>	Means the Local Government Pension Scheme as defined under “LGPS”
<i>“Scheme Manager”</i>	Means Isle of Wight Council as administering authority of the Isle of Wight Council Pension Fund.
<i>“Scheme member”</i>	A person who has been admitted to membership of a pension scheme and is entitled to benefit under the scheme. Such a person may be “Active” (paying contributions), “Deferred” (no longer paying contributions, but entitled to future benefit), or “Retired” (in receipt of benefit)

## 1.18 Interpretation

- (i) Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Scheme Manager.

# **ARTICLE 13 – ISLE OF WIGHT FIRE AUTHORITY FIRE FIGHTERS PENSION BOARD**

## **1. Terms of Reference and Delegated Authorities**

### **1.1 Introduction**

- (i) The purpose of this document is to set out the terms of reference for the Fire Fighters Pension Board of the Isle of Wight Fire Authority.

### **1.2 Role of the Fire Fighters Pension Board**

- (i) The role of the Fire Fighters Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is to –
  - Assist Isle of Wight Fire Authority; –
    - to secure compliance with the Fire Fighters Pension Scheme (FFPS) regulations and any other legislation relating to the governance and administration of the FFPS
    - to secure compliance with requirements imposed in relation to the FFPS by the Pensions Regulator
    - in such other matters as the FFPS regulations may specify
  - Secure the effective and efficient governance and administration of the FFPS for the Isle of Wight Fire Authority
  - Provide the Fire Authority with such information as it requires to ensure that any member of the fire fighters pension board or person to be appointed to the board does not have a conflict of interest.
- (ii) The Fire Fighters Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- (iii) The Fire Fighters Pension Board will also help ensure that the FFPS is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- (iv) The Fire Fighters Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

### **1.3 Appointment of members of the Fire Fighters Pension Board**

- (i) The process for selecting members of the Fire Fighters Pension Board is set out below.

- (ii) The Board shall consist of 4 members and be constituted as follows:
- 2 employer representatives;
  - 2 scheme member representatives;
- (iii) The employer representatives shall be either elected members or officers of the Isle of Wight Fire Authority. Elected members or officers of Isle of Wight Fire Authority with delegated responsibility for discharging the scheme manager function of Isle of Wight Fire Authority may not serve as employer representatives.
- (iv) The scheme member representatives shall be active firefighters, appointed by the FBU who will be responsible for arranging their own election of suitable candidates and advise the Isle of Wight Fire Authority of this so that it can be assured that it is open and transparent.
- (v) The Chair of the local Board will be determined by the Board on an annual basis.
- (vi) It will be the role of the Chair to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.
- (vii) Each employer representative and scheme member representative so appointed shall serve for a fixed 2 year period which can be extended for further period(s) subject to re-nomination.
- (viii) Each Board member is expected to attend all Board meetings during the year. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the fire authority.
- (ix) Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members.
- (x) The Board may, with the approval of the fire authority, co-opt persons who are not members of the Board to serve on sub committees, particularly where this would add skills and experience.
- (xi) Notwithstanding the appointment of co-opted members, the majority of the Board shall be comprised of employer and scheme member representatives, represented in equal number.
- (xii) There will be no provision to allow for substitute members to be appointed.

#### **1.4 Quorum**

- (i) The Board shall have a formal quorum of 3. This should include at least one employer representative and one scheme member representative.
- (ii) Advisers and co-opted persons do not count towards the quorum.

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

- (i) The policy for identifying conflicts of interest will be based upon the Fire Authority's Code of Conduct as contained in the Constitution of the Isle of Wight Council and relevant guidance issued by the Pensions Regulator.
- (ii) No one may be appointed to the Board who has a conflict of interest. It is the responsibility of the board member to provide any information required by the fire authority in order to determine whether a conflict exists.

#### **1.6 Board Review Process**

- (i) The Board will undertake each year a formal review process to assess how well it and its sub-committees, if any, and the members are performing with a view to seeking continuous improvement in the Board's performance.

#### **1.7 Advisers to the Board**

- (i) The Board may be supported in its role and responsibilities through the appointment of advisers and shall, subject to any applicable regulation and legislation from time to time in force, consult with such advisers to the Board and on such terms as it shall see fit to help better perform its duties. Any cost associated with the use of advisers to the Board must first be agreed with the Fire Authority.
- (ii) The Board shall ensure that the performances of the advisers so appointed are reviewed on a regular basis.

#### **1.8 Knowledge and Skills**

- (i) A member of the Pension Board must be conversant with –
  - The legislation and associated guidance of the FFPS.
  - Any document recording policy about the administration of the FFPS which is for the time being adopted by the Fire Authority.
- (ii) A member of the Pension Board must have knowledge and understanding of –
  - The law relating to pensions
  - The Pension Regulator's code of practice, and
  - Any other matters which are prescribed in regulations.

- (iii) It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.
- (iv) In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.
- (v) Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.
- (vi) Pension Board members will comply with the fire authority's training policy.
- (vii) Members of the Pension Board will be expected to attend training sessions held to support the development of their knowledge and skills, as well as any other training sessions held specifically for Board members.

## **1.9 Board Meetings – Notice and Minutes**

- (i) The fire authority shall give notice to all Pension Board members of every meeting of the Pension Board. The fire authority shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board or Board committee, they shall be circulated to all members and posted on the Isle of Wight Council's website.
- (ii) There will be at least 1 Pension Board meeting a year, other meetings may be convened with due notice as the Board determines.

## **1.10 Remit of the Board**

- (i) The Pension Board must assist the fire authority with such other matters as the scheme regulations may specify. It is for scheme regulations and the fire authority to determine precisely what the Pension Board's role entails.

## **1.11 Standards of Conduct**

- (i) The role of Pension Board members requires the highest standards of conduct and therefore the "seven principles of public life<sup>1</sup>" will be applied to all Pension Board members together with the code of conduct as contained within the constitution of the Isle of Wight Council.

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<sup>1</sup> Standards Matter: a review of best practice in promoting good behaviour in public life", Committee on Standards in Public Life, January 2013

### **1.12 Decision making**

- (i) Each member of the Pension Board will have an individual voting right but it is expected the Pension Board will as far as possible reach a consensus. If there are equal numbers of votes for and against the Chair of the Pension Board will have a second or casting vote which will be reported to the fire authority.

### **1.13 Publication of Pension Board information**

- (i) Scheme members and other interested parties will want to know that the FFPS is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, the governance and administration of the scheme and requirements of the Pension Regulator.
- (ii) Up to date information will be posted on the section relating to the Isle of Wight Fire Authority on the Isle of Wight Council's website showing:
  - The names and information of the Fire Fighters Pension Board members
  - How the scheme members are represented on the Pension Board
  - The responsibilities of the Pension Board as a whole
  - The full terms of reference and policies of the Pension Board and how they operate
  - The Pension Board appointment process
  - Who each individual Pension Board member represents
  - Any specific roles and responsibilities of individual Pension Board members.
- (iii) Pension Board papers, agendas and minutes of meetings will be published on the Isle of Wight Council website. These may at the discretion of the fire authority be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.
- (iv) The fire authority will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

### **1.14 Accountability**

- (i) The Pension Board will be collectively and individually accountable to fire authority.

### **1.15 Expense Reimbursement**

- (i) Only expenses incurred by a Board member in attending an activity approved by the Board will be paid by the Fire Authority.

## 1.16 Reporting Breaches

- (i) Any breach brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document.

## 1.17 Definitions

- (i) The undernoted terms shall have the following meaning when used in this document:

<i>"Chair"</i>	Reference to duties to be performed, or authorities exercised, by the Chair
<i>"Elected member"</i>	A councillor of the Isle of Wight Council as the Fire Authority, elected by due democratic process.
<i>"FFPS"</i>	The Fire Fighters Pension Scheme as constituted by the Fire Fighters Pension Scheme (England) Regulations 2014
<i>"Pension Board" or "Board"</i>	Means the local Fire Fighters Pension Board for the Isle of Wight Fire Authority as required under the Public Service Pensions Act 2013
<i>"Scheme"</i>	Means the Fire Fighters Pension Scheme as defined under "FFPS"
<i>"Scheme Manager"</i>	Means the Isle of Wight Fire Authority.
<i>"Scheme member"</i>	A person who has been admitted to membership of the FFPS and is entitled to benefit under the scheme.

## 1.18 Interpretation

- (i) Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the fire authority.



# **ARTICLE 14 – ISLE OF WIGHT HEALTH AND WELLBEING BOARD**

## **1. Constitution and Terms of Reference**

### **1.1 What is health and wellbeing?**

- (i) The World Health Organisation defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. Health and wellbeing therefore encompasses health services, adult social care, children’s services, and the wider consideration of the impact of issues such as housing, community safety, economic development and the environment.
- (ii) In seeking to optimise the health and wellbeing of Island residents within the resources available it is necessary to bring partner organisations together around this common aim, addressing inequalities and responding to the needs of the most vulnerable.

### **1.2 Purpose of the Health and Wellbeing Board – The Local Aspiration**

- (i) On the Isle of Wight, the Council, NHS organisations, Police and Crime Commissioner, Hampshire Police, the Department of Work and Pensions, HM Prison IW, IW Voluntary Sector Forum, People Matter and Healthwatch have all committed to taking a broad definition of health and wellbeing to bring into scope all of the factors that impact on how people experience good health and wellbeing in their daily lives.
- (ii) The Health and Wellbeing Board is the key forum which takes an overview of the island population’s health and wellbeing, make plans to improve it and ensures delivery of its priorities.
- (iii) The Health and Wellbeing Board provides the platform from which commissioning and provider organisations can demonstrate that they have considered both the empirical evidence provided through the Joint Strategic Needs Assessment (JSNA) and the views of both individuals and the wider community.
- (iv) Through this approach the strategic priorities of the Health and Wellbeing Board and those of its member organisations will be shaped and partners will be able to hold each other to account.
- (v) The Health and Wellbeing Board is constituted as a formal committee of the Isle of Wight Council and answerable to its scrutiny functions. This ensures that there is a formal local democratic accountability for its actions and performance.

### **1.3 The legislative underpinning of the Health and Wellbeing Board**

- (i) The Health and Social Care Act 2012 establishes Health and Wellbeing Boards. It defines a Health and Wellbeing Board as:

*.... a committee of the local authority which established it and, for the purposes of any enactment, is to be treated as if it were a committee appointed by that authority under section 102 of the Local Government Act 1972.*

- (ii) The Act also sets out a duty to encourage integrated working stating:

*A Health and Wellbeing Board must, 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.*

- (iii) The Act also describes a minimum membership of the Health and Wellbeing Board as being:

- One local elected representative
- A representative of the local Healthwatch organisation
- A representative of the local Clinical Commissioning Group
- The local authority Director for Adult Social Services
- The local authority Director for Children's Services
- The local authority Director of Public Health

- (iv) Statutory guidance issued in March 2013 describes the Health and Wellbeing Board's responsibilities in relation to undertaking Joint Strategic Needs Assessments (JSNA's) and producing Joint Health and Wellbeing Strategies (JHWS's)

- (v) The Guidance describes JSNA's as:

*....assessments of the current and future health and social care needs of the local community. – these are needs that could be met by the local authority, CCGs, or the NHS. JSNAs are produced by health and wellbeing boards and are unique to each local area. The policy intention is for health and wellbeing boards to also consider wider factors that impact on their communities' health and wellbeing, and local assets that can help to improve outcomes and reduce inequalities*

- (vi) JSNA's will need to give specific consideration to:

- *demographics of the area, and needs of people of all ages of the life course including how needs vary for people at different ages;*
- *how needs may be harder to meet for those in disadvantaged areas or vulnerable groups who experience inequalities, such as people who find it difficult to access services and those with complex and multiple needs.*
- *wider social, environmental and economic factors that impact on health and wellbeing – such as access to green space, the impact of climate change, air quality, housing, community safety, transport, economic circumstances, employment; and*
- *what health and social care information the local community needs, including how they access it and what support they may need to understand it.*

- (vii) JHWS's are defined as the strategies for meeting needs identified in JSNA's:

- *JHWSs should translate JSNA findings into clear outcomes the board wants to achieve.*
- (viii) In addition it is expected that the local authority, Clinical Commissioning Group (CCG) and NHS Commissioning Board plans will be informed by the JSNA and JHWS and critically:
- *Where plans are not in line with JSNAs and JHWS, CCGs, the NHS CB and local authorities must be able to explain why.*
  - *CCGs must involve the health and wellbeing board in preparing (or making significant changes to) their commissioning plans. This includes consulting health and wellbeing boards on whether the plans take proper account of the JSNAs and JHWS. When consulted, boards must give a view, and their final opinion must be included in the published plan. It would also be good practice for local authorities and the NHS CB to involve boards when developing their commissioning plans, to ensure that they are properly informed by the relevant JSNAs and JHWSs.*
- (ix) Finally the Government may from time to time issue guidance which requires certain issues to be considered by the Health and Wellbeing Board.

#### 1.4 **Membership of the Isle of Wight Health and Wellbeing Board**

- (i) The membership of the Health and Wellbeing Board will be as follows:
- Leader of the Isle of Wight Council and the relevant Isle of Wight Council Executive Members with responsibility for Children, Adult Services and Public Protection
  - Chief Executive of the Isle of Wight Council
  - Isle of Wight Council Statutory Directors of Children's Services, Adult Services and Public Health.
  - Isle of Wight Council Director of the Economy and Environment
  - The Chairman of the Isle of Wight Clinical Commissioning Group.
  - Chief Officer Isle of Wight of Clinical Commissioning Group
  - Representative of the Area Director of the Wessex Area Team of NHS England
  - Chief Executive of Isle of Wight NHS Trust
  - Representative of the Chief Constable of Hampshire of Police
  - Police and Crime Commissioner for Hampshire and the Isle of Wight or his representative
  - Representative of Healthwatch Isle of Wight.
  - Representative of Isle of Wight Association of Local Councils (IWALC)
  - Chairman of the Isle of Wight Voluntary Sector Forum
- (ii) The Board will be quorate if there are at least two Executive Members of the Council, one statutory officer of the Council, a representative of the CCG and four other members of the Board or their representatives present.

- (iii) The chairman of the Board shall be the Isle of Wight Council Executive Member with responsibility for Adult Services and the vice chairman shall be the chairman of the Isle of Wight Clinical Commissioning Group.

## **1.5 Voting arrangements**

- (i) The Board seeks to make decisions based on consensus but should a vote be required then the following will all have one vote:
- Isle of Wight Council
  - The IW Clinical Commissioning Group, NHS England and IW NHS Trust combined
  - Hampshire and Isle of Wight Police and Crime Commissioner and Hampshire Police
  - Healthwatch, IW Voluntary Sector Forum and IWALC combined

## **1.6 Meeting arrangements**

- (i) The Board will meet four times a year with additional meetings being arranged in agreement with the Chairman.
- (ii) Meetings of the Board will be open to the public and press. The agenda and papers for meetings of the Board will be published in line with the appropriate statutory timescales and there will be an opportunity for members of the public to submit written questions. Such questions must be received at least 48 hours prior to the meeting and must relate to the business of the Board as set out in this constitution. The total time set aside for public questions and answers will be limited to 15 minutes.

## **1.7 Executive Group**

- (i) An executive group comprising officer/executive representatives from all the organisations represented on the Board, with the exception of Healthwatch will be established. This executive group will have the responsibility for ensuring that the Health and Wellbeing Board is appropriately advised and administered and its decisions implemented.
- (ii) The executive group will be chaired by the Isle of Wight Council's Director for Community Wellbeing and Social Care
- (iii) Additional organisations such as the Department of Work and Pensions may be invited to join the Executive Group to assist its work

## **1.8 Sub Groups**

- (i) The Board will be supported by four standing sub groups. These are Strategic Partnerships and are described as follows:

- **Healthy Lifestyles** – seeking to influence individuals’ behaviour away from those aspects that are damaging to their health and provide opportunities for those who experience the poorest health outcomes to achieve improvements that narrow the gap between them and those who enjoy the best health outcomes
  - **Community Safety** – focussing on those factors that reduce crime and the fear of crime within the community
  - **“My Life a Full Life”** – focusing on people who are the most affected by preventable and/or long term health conditions and supporting them to achieve a better quality of life
  - **Children and Young People** – ensuring all children on the Island have the best opportunities to reach their potential while those who are most vulnerable are protected and supported.
  - **Strategic Housing Partnership**
- (ii) The sub groups will agree their programmes of work, monitor progress and review performance in their respective areas.
  - (iii) Members of the sub groups will comprise an appropriate mix of commissioners, providers and community representatives to be determined as appropriate.
  - (iv) The Board may also establish specific working groups. The groups will be set up from time to time as agreed by the board. These groups will be time limited, have clear terms of reference, and may include those who are not members of the board.
  - (v) These working groups will not hold their meetings in public.

#### 1.9 **IW Local Safeguarding Children’s Board (LSCB) and IW Local Safeguarding Adults Board (LSAB)**

- (i) The LSCB is a statutory body established under the Children Act 2004. Its purpose may be summarised as to co-ordinate and quality assure the safeguarding children activities of member agencies. The LSAB, while not yet on a statutory footing, performs a similar function in relation to vulnerable adults.
- (ii) Both the LSCB and LSAB need to be able to bring issues and concerns to the attention of the Health and Wellbeing Board and in turn, the Health and Wellbeing Board needs to be confident that these fora are operating effectively to discharge their responsibilities. The Health and Wellbeing Board will therefore, as a minimum, consider the Annual Reports of both the LSCB and LSAB

## 1.10 **Review of Constitution**

- (i) This constitution will be reviewed annually from the date of adoption.
- (ii) Administrative adjustments may be made in year by the Chairman as appropriate.

## ARTICLE 15 - OFFICERS

### 1. Chief Officer Appointments

- 1.1 Chief officer appointments will be made in accordance with the Terms of Reference of the Employment Committee (see [Article 9](#) above) and the Officer Employment Rules set out later in the constitution ([click here](#))

### 2. Management Structure

- 2.1 **General.** The head of paid service has the responsibility of determining the management and officer structure for delivering council functions and policies within available resources.

#### 2.2 Chief Executive (Head of paid service) and Chief Officers.

- (i) The current structure is shown below.

Chief Executive (who shall also be the head of paid service) Head of Place  
Director of Children's Services  
Director of Public Health  
Director of Adult Social Services  
Chief Fire Officer  
Head of Resources  
Head of Legal Services and Monitoring Officer (*Not a chief officer but sits on CMT*)

- 2.3 Head of paid service, monitoring officer, chief financial officer, proper officer (an officer appointed for that specific purpose by the Isle of Wight Council), director of children's services, director of public health and director of adult social services.

- (i) The council is required to appoint six statutory officers, and has designated the following posts as shown :

Post	Designation
Chief Executive	Head of paid service
Head of Legal Services and Monitoring Officer	Monitoring officer
Head of Finance and Section 151 Officer	S151 and Chief financial officer
Director of children's services	Director of children's services (section 18 Children Act 2004)
Director of Adult Social Services	Director of adult social services (section 6 Local Authority Social Services Act 1970)
Director of Public Health	Director of Public Health

- (ii) The above designations can be changed (on a temporary or permanent basis) but only on the decision of Full Council.

- 2.4 **Proper Officer.** The proper officer is an officer appointed for that specific purpose by the Isle of Wight Council.
- 2.5 **Structure.** The chief executive will publish from time to time a description of the overall departmental structure of the council showing the management structure and deployment of officers.

(i) **Functions of the head of paid service**

- Discharge of functions by the council. To determine:
  - The co-ordination and manner of discharge of all functions of the council.
  - The number and grades of staff required
  - The organisation, appointment and proper management of staff.

Where necessary the chief executive will report to Full Council or the Executive or Employment Committee (as appropriate) on these matters.

- **Policy and priorities.** The chief executive will ensure that a sound strategic framework exists so that council policy is informed, helped and clarified, giving such policies a clear strategic direction, supported by realistic action plans and will oversee the implementation of the council's policies and also develop mechanisms to enable priorities to be set and choices to be exercised by elected members in the allocation of finance and other resources.
- **Communications.** The chief executive will ensure that the council communicates with those who receive its services its partners in service delivery and the various communities of which it is a part, explaining, interpreting, listening and consulting in a wide ranging and effective way.
- **Powers.** The chief executive or his nominee shall have all the powers of any other officer in the event of their absence or inability to act, except insofar as the exercise of such powers is by law limited to a specific post holder.
- **Restrictions on functions.** The chief executive may not be the monitoring officer but may hold the post of chief financial officer if a qualified accountant.

(ii) **Functions of the monitoring officer**

- **Maintaining the constitution.** The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.
- **Ensuring lawfulness and fairness of decision making.** After consulting with the chief executive, and chief financial officer, the monitoring officer will report to the Full Council (or to the Executive in relation to an executive function) if he



or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- **Ensuring that all reports that are submitted to members** for consideration meet the required quality of accuracy and assessment of the issues to be considered.
- **Considering complaints against members and determining what action to take.** The monitoring officer will consider complaints that allege members have breached the code of conduct and may seek the advice of a designated independent person, and will seek such advice before referring a complaint to an investigation.
- **Conducting investigations.** The monitoring officer will arrange for an investigating officer to conduct investigations into alleged breaches of the members' code of conduct and will arrange for such reports to be considered by the Appeals Committee where an investigating officer determines that there has been a breach of the code of conduct.
- **Granting dispensations.** In consultation with a designated independent person, to deal with requests for dispensation without the need for a meeting of the Appeals Committee where that is deemed to be appropriate.
- **Advising whether Executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- **Restrictions on posts.** The monitoring officer cannot be the chief financial officer or the head of paid service.
- The monitoring officer protocol attached to this constitution sets out the statutory base of this position.

### (iii) **Functions of the chief financial officer**

- **Ensuring lawfulness and financial prudence of decision making.** After consulting with the chief executive and the monitoring officer, the chief financial officer will report to the Full Council or to the Executive in relation to an executive function and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.

- **Ensuring that all reports that are submitted to members** for consideration meet the required quality of accuracy and assessment of the issues to be considered.
- **Administration of financial affairs.** The chief financial officer will have responsibility for the administration of the financial affairs of the council including the provision of an internal audit function.
- **Contributing to corporate management.** The chief financial officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- **Providing advice.** The chief financial officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- **Give financial information.** The chief financial officer will provide financial information to the media, members of the public and the community.
- **Financial Management.** The chief financial officer will monitor the council's financial performance on a continuous basis, and will advise the council of the robustness of its budgets and the adequacy of its reserves.

## 2.6 **Duty to provide sufficient resources to the monitoring officer and chief financial officer**

- (i) The Council will provide the monitoring officer and chief financial officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **ARTICLE 16 - DECISION MAKING**

### **1. Responsibility for decision making**

- 1.1 Most decisions of the council are made by the Executive, by the regulatory committees or by officers exercising delegated powers. The Full Council itself has some specific powers which only it can exercise and, in addition, it is responsible for approving the council's budget and policy framework. The council has agreed a protocol on decision making which identifies the different types of decisions made by the council.

### **2. Principles of decision making**

- 2.1 All decisions of the council will be made in accordance with the following principles:

- (i) that relevant matters are taken into account;
- (ii) that nothing irrelevant is taken into account;
- (iii) that procedural rules and financial and contract procedure rules are complied with;
- (iv) that proper advice is taken and considered before the decision is reached;
- (v) that any interests are properly declared;
- (vi) that the decision is properly recorded and published;
- (vii) proportionality (i.e. the action must be proportionate to the desired outcome);
- (viii) due consultation and the taking of professional advice from officers;
- (ix) respect for human rights and equality impacts;
- (x) a presumption in favour of openness;
- (xi) clarity of aims and desired outcomes;
- (xii) due consideration of all available options; and
- (xiii) the protocols and procedures contained in this constitution.

- 2.2 All decisions must be taken in accordance with the protocol on the decision making process as detailed on page 162 of this constitution.

# **ARTICLE 17 - FINANCE, CONTRACTS AND LEGAL MATTERS**

## **1. Financial Management**

- 1.1 The management of the council's financial affairs will be conducted in accordance with the financial procedure rules set out in this constitution.

## **2. Contracts**

- 2.1 Every contract made by the council will comply with the contracts procedure rules as set out in this constitution.

## **3. Legal Proceedings**

- 3.1 The head of Legal Services and monitoring officer is authorised to institute, settle, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where he or she considers that such action is necessary to protect the council's interests.
- 3.2 The head of Legal Services and monitoring officer authorises officers of the council to institute proceedings in the magistrates court or the county court on behalf of the council for the recovery of sums due to the council and sundry debts including recovery of council tax, non domestic rates, community charge, domestic rates and to authorise any person to act on the council's behalf in taking any court proceedings or other enforcement measures appropriate to the task of recovery, and to authorise the common seal of the council to be affixed to documents of the council in this connection.

## **4. Authentication of documents**

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Head of Legal Services and monitoring officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

## **5. Common seal of the council**

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

## **ARTICLE 18 - REVIEW AND REVISION OF THE CONSTITUTION**

### **1. Duty to monitor and review the constitution**

- 1.1 The monitoring officer will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.
- 1.2 In undertaking this task the monitoring officer may:
- (i) observe meetings of different parts of the member and officer structure;
  - (ii) undertake an audit trail of a sample of decisions;
  - (iii) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
  - (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

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

- 2.1 **Approval.** Changes to the constitution by Full Council will only be approved by the Full Council after consideration of the proposal by the monitoring officer.
- 2.2 **Delegation.** The monitoring officer has the delegated authority to amend the constitution to reflect decisions taken at Full Council, changes in the law, to correct errors or clarify ambiguities where to do so does not alter (but gives further effect to) the executive arrangements or the principles enshrined in the constitution.

## **ARTICLE 19 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **1. Suspension of the Constitution**

- 1.1 **Limit to suspension.** The articles of this constitution may not be suspended. The council procedures rules set out in this constitution may be suspended by the Full Council to the extent permitted within those rules and the law.
- 1.2 **Procedure to suspend.** A motion to suspend any rules will not be moved at Full Council without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **2. Interpretation**

- 2.1 The ruling of the chairman of council, after taking advice, as to the construction or application of this constitution or as to any proceedings of the Full Council shall not be challenged at any meeting of the Full Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

### **3. Publication**

- 3.1 The head of Legal Services and monitoring officer will ensure that a copy of this constitution is available to each member of the authority either via the council's web site, or in hard copy if requested, upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the council.
- 3.2 The head of Legal Services and monitoring officer will ensure that copies are accessible for inspection at council offices, libraries and other appropriate locations.
- 3.3 Access by electronic means shall be sufficient for the purposes of this rule.

## *SCHEDULE : DESCRIPTION OF EXECUTIVE ARRANGEMENTS*

1. The following parts of this Constitution constitute the Executive arrangements:
  - 1.1 Article 5 - (The Executive) and the Executive Procedure Rules
  - 1.2 Article 6 - Scrutiny Function and the Scrutiny Committee Procedure Rules
  - 1.3 Article 7 - Select Committees
  - 1.4 Article 9 - Employment Committee
  - 1.5 Article 10 - Audit Committee
  - 1.6 Access to Information and Procedure Rules

## *RESPONSIBILITY FOR FUNCTIONS*

1. The Executive exercises the following functions, vested in it by the various Local Authorities Functions and Responsibilities Regulations made by parliament and particularly:

- 1.1 To Recommend to the Council

- (i) The budget and policy framework.
- (ii) Changes to this constitution and for the arrangements for the good governance of Council.

- 1.2 To Determine

All matters not otherwise reserved to Full Council, delegated to the regulatory committees, or the Scrutiny Committee, and in particular –

- (i) To agree the acquisition and disposal of property and the management of the council's land holdings;
- (ii) To exercise all the powers and duties of the council in respect of leisure, libraries, museums, consumer protection and environmental health;
- (iii) To exercise all the powers of and duties of the council as the local education authority;
- (iv) To act as the social services committee and exercise all the powers and duties of the council's role as social services authority;
- (v) To act as the highways, transportation and waste disposal authority;
- (vi) To act as the fire authority;
- (vii) To act as the harbour board for Newport Harbour;
- (viii) To agree protocols for consultation and relations with outside bodies.



# *DELEGATION OF FUNCTIONS*

The decision making arenas for Council business are:

1. Full Council, which decides the council's policies as set out in Article 4, sets the level of council tax, the revenue budget and capital budget each year.
2. Executive, which is responsible for most decisions which are within the budget and policy framework agreed by Full Council. Executive functions are carried out by the Executive or officers acting under delegated powers.
  - 2.1 Executive meetings should only take decisions that are significant, controversial or which are of strategic importance. The vast majority of decisions will be taken by officers under delegated powers, these may be taken in consultation with the relevant Executive member where it is appropriate to do so.
  - 2.2 Officers should consider using their delegated powers for decisions that fall outside the definition above, however they must refer to the relevant executive member any decision that is controversial or which would benefit from higher visibility by being taken by the Executive for them to make recommendations as they consider appropriate.
  - 2.3 Any decision that is likely to be contentious should be discussed with the executive member before the decision is made so that the appropriate decision making process can be agreed.
  - 2.4 An officer may take an officer decision (see officers scheme of delegation), subject to the limitations referred to in the scheme.
  - 2.5 All decisions must be taken in accordance with the "Decision Making Rules" as set out on page 162 of the constitution.
3. The Council will also establish committees to deal with the regulatory side of non-executive functions such as matters relating to planning, licensing and appeals. Many of the decisions that relate to planning and licensing can be dealt with by officers under the officer delegation scheme.
4. The functions described in paragraphs 1 and 3 above are described as "non executive functions" and those in paragraph 2 are "executive functions". Only the Executive can determine executive functions.
5. **Delegated Functions**
  - 5.1 The leader of the council will determine the size (up to a maximum of 9), membership and individual portfolios of the Executive.
  - 5.2 The full council will agree the scheme of delegation (in as far as they relate to non executive functions) whilst the regulatory committees will agree any delegation of their functions to the officers.

## 6. Delegation of Executive Functions – Executive

### 6.1 Executive

6.2 To collectively take decisions (within the budget and policy framework set by Full Council) which relate to executive functions and which:

- (i) Have a genuine strategic island or council-wide effect, or
- (ii) Are controversial, or
- (iii) Form greater public exposure than an officer delegated decision is likely to receive, or
- (iv) Where there is no individual officer available (or willing) to exercise delegated authority.

### 6.3 Leader

The leader of the council has the delegated authority to determine:

- (i) The size of the Executive
- (ii) The appointment of Executive members (up to a maximum of 9 not including the Leader)
- (iii) The allocation of portfolios and responsibility to Executive members and deputies

### 6.4 Executive Member Responsibilities

- (i) The leader shall, from time to time, amend the various portfolios of executive members and deputies and shall maintain a list of all the functions that are contained within those portfolios. This list is available from this web site :-

<http://www.iwight.com/Council/how-it-works/Councillors/Isle-of-Wight-Council-Members>

- (ii) By their nature, the portfolios of responsibility cut across the various functions of the council and therefore in cases of uncertainty as to which executive member is responsible, the leader of the council shall determine the appropriate executive member.

## **7. Delegated Decision Making**

- 7.1 If the executive member considers that any decision that officers are consulting them about is likely to be sensitive or controversial, then they have the discretion to refer the decision to the Executive.
- 7.2 When the Executive is making a decision the principles of decision making as set out on page 162 must be followed.

## **8. Officer Scheme of Delegation**

### **8.1 Introduction**

### **8.2 What is the officer scheme of delegation?**

- (i) Certain types of decision must by law be delegated to an officer rather than being determined by members. These include the appointment and dismissal of officers below deputy chief officer level, discharge of the duties of the returning officer in elections and the proper officer functions. Other council functions must by law be determined by members, for example, setting the council tax and adopting the plans or strategies constituting the council's policy framework. For the great majority of local authority functions, it is a matter of local choice for the council whether they are exercised by members or delegated to officers.
- (ii) The council's constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that the council operates in an efficient, transparent and accountable manner.
- (iii) The constitution describes the overall areas of responsibility for members of the Executive and for committees and sub-committees. However, to ensure that the council runs efficiently, it is necessary for decisions to be taken by officers. The officer delegation sets out which officers are empowered to undertake which decisions or actions on behalf of the council.
- (iv) The exclusions from the delegations to officers (i.e. the matters that are reserved for members' decision) are set out in section 2 below and must be referred to Full Council or Executive.

### **8.3 General Limitations**

- (i) This Scheme does not delegate to officers the following:
  - Any matter reserved to Full Council unless explicitly delegated by Full Council
  - Appointment of the head of paid service, Monitoring Officer and Section 151 Officer and posts above deputy chief officer level. The appointment (on a recommendation from the Employment Committee) of the head of paid

service is a matter for the Full Council, as is the appointment of the Monitoring Officer and Section 151 Officer, all other chief officer appointments are delegated to the Employment Committee (although the designation of certain statutory posts remains a matter for Full Council see page 20).

- Any matter which by law may not be delegated to an officer.
- Any matter expressly reserved to the Executive within its terms of reference or otherwise, by standing orders or financial regulations or withdrawn from delegation by this scheme or by the Executive or Full Council
- The making of an order for the compulsory acquisition of land
- The acquisition of land in advance of requirements
- The adoption, amendment (other than minor amendments as set out in page 19) or delegation of any strategic plan or policy as set out in the terms of reference of the Full Council, the Executive or any committee, sub-committee or panel of the council.

(ii) Officers shall not be authorised by virtue of these provisions

- To incur any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with financial regulations
- To take a decision in contravention of any existing council policy.

#### 8.4 General principles/common officer delegations

- (i) The officer delegation scheme confers on chief officers extensive powers to carry out the council's functions, both executive and non-executive. The designation "chief officer" throughout this scheme will include the chief executive.
- (ii) The head of paid service will maintain and publish a list of services for which each chief officer is responsible for, and in relation to which they have delegated powers under this scheme. The head of paid service has authority to amend that list and this scheme, to reflect operational necessity and in order to deliver continually improving services.
- (iii) Powers shall be exercised in accordance with the law, the council's procedure rules, financial procedure rules, contract procedure rules and any policies relevant to the functions delegated.
- (iv) The fact that a function is delegated to a chief officer under this scheme does not restrict an officer referring any decision to the Executive or relevant committee should he/she consider that the decision is controversial or of strategic importance. "Function" is to be construed broadly and includes the doing of anything which is

calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

- (v) A chief officer is not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers, either generally or specifically, on his/her behalf. A chief officer must maintain a list of all such authorisations, as part of a comprehensive service scheme of delegation.
- (vi) The leader or the relevant executive member (i.e. the executive portfolio holder for that function) may direct that a delegated power should not be exercised by the chief officer but should be referred to Executive or the appropriate committee unless otherwise agreed. Such direction should be exercised in consultation with the relevant chief officer.
- (vii) A chief officer may refer any matter to Full Council, the Executive, or the appropriate committee of the council for decision at their discretion.
- (viii) Chief officers have responsibility to report to Full Council, Executive, the appropriate committee or committee chair or appropriate ward members (and following this the relevant Parish/Town Council) matters that are of a political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.
- (ix) Chief officers and officers authorised to exercise delegated powers are required to keep members properly informed of activity arising within the scope of these delegations and to ensure a proper record of such activity is kept and available to members and the public in accordance with the legislation.
- (x) If the post holder or office of any employee of the council is vacant, or the employee is absent or otherwise unable to act, the most suitable senior officer available is hereby authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing (which includes email) by the chief officer with responsibility for the post or officer, or in the event of a chief officer, another chief officer.

## 8.5 Specific officer delegations

- (i) Chief Executive
- (ii) Where necessary in consultation with the monitoring officer, chief finance officer, political groups, leader of the council and/or relevant executive member(s) to authorise urgent action between Executive meetings and ensure that the chairman of the Scrutiny Committee is (where practicable) notified before the decision is made and then notified once the decision has been made. As and when required the Chief Executive can appoint a deputy with full powers to act in his absence.

- (iii) To ensure strategically lead improvements in the quality and efficiency of service delivery and to devise and maintain systems to deliver good governance, including performance management, risk management and ethics/probity structures.
- (iv) To determine the management structure and the deployment of staff.
- (v) Responsibility for ensuring:
  - that human resource management complies with current council policy and standards
  - propriety and observance of codes of conduct for all council staff
  - compliance with and observance of all established council policies
- (vi) To make arrangements for the council to be represented on partnership and external bodies as required by statute or the council.
- (vii) To have all the powers of any other officer of the council in the event of their absence or inability to act, except in so far as the exercise of such powers is by law limited to a specific post holder.
- (viii) Chief officer and their direct reports are authorised within their areas of responsibility and subject to the following conditions:
  - Chief officers are empowered to make such decisions and initiate such actions as they deem necessary in the interests of efficient delivery and improvement of services within their area of responsibility set out in the table at pages 80-84, which is revised from time to time to reflect the latest position.
  - To make minor amendments to the structure of their department subject to consultation with the relevant executive member.
  - With the exception of officers at JNC (Chief Officer) level, to make appointments to a post on the budgeted establishment and take such decision in relation to human resources as are appropriate for the proper management of the service within the approved structure.
  - To implement the council's human resources policies as shall apply at any time.
  - To authorise officers to carry out the councils functions under all legislation, regulations, orders and statutory codes of practice, to include entry of premises, inspections and signing and service of notices in relation to the council's enforcement functions.
  - In an emergency, to take such action as is necessary within the law to protect life, health, and safety, the economic social or environmental well-

being of the Island, and to preserve property belonging to the council or others.

- To enter into contracts, review their operation, establish and maintain approved lists of contractors of suppliers and the appointment of consultants, subject to the financial regulations, the procurement rules, contract standing orders and budgetary provision.
  - To authorise legal proceedings in respect of offences under acts, regulations, byelaws or orders within the remit of the service area, and with the approval of the head of Legal Services and monitoring officer.
  - When taking, or considering taking, delegated decisions all officers must have regard to the following:
    - Does the decision involve significant expenditure to the service budget, or wider council budget?
    - Does the decision affect the reputation of the service and/or council?
    - Is the decision significant with regard to one or more wards?
    - Does the decision carry a significant risk to the service or wider council?
    - Does the decision impact reputationally or financially on service users, partner organisations or committees outside the council?
- (ix) Officers must consider the above and, depending upon the level of significance, prepare an officer decision using the pro forma, which may be presented to the relevant executive member for their agreement to the decision (this can be done via email). If the matter is considered to be of high significance then the officer should consider whether to consult ward member(s) (and following this the relevant Parish/Town Council) or whether in fact an Executive report should be prepared instead and the matter entered on the forward plan.
- (x) Day to day routine management decisions do not need to be subject to formally recorded decision procedures.

## Scheme of Delegation

Statutory Roles	Chief Officer Post	Job Role and Service Delivery Objectives
Head of Paid Service	Chief Executive	<p>Undertake the responsibilities of the Head of Paid Service as defined in law and the council's constitution and to be the council's principal advisor directing the management process and officers of the Council to deliver the objectives of the administration.</p> <p>Hold overall accountability for the management of staff and propose a culture that demonstrates a positive outlook and continuous improvement to meeting the challenges despite financial constraints. To review as necessary the staffing structure, capacity, skills and performance of the council to ensure that they match the needs of the community, financial constraints, strategic priorities and statutory obligations.</p> <p>Manage the interface between elected members and officers to ensure effective delivery of the Vision and Corporate Plan.</p> <p>Work with elected Members to build and develop strong relationships with existing and potential key partners (local, regional and national) across all sectors to develop effective partnership working and collaboration for the benefit of the Island community.</p> <p>To lead the Medium-Term Budget Strategy, Change Management and overall Council Performance.</p>
	Head of Place	<p>To lead and manage Recreation, Leisure, Public Spaces, Public Realm, Libraries, Help Centres, Rights of Way, Events and Consultation.</p> <p>To lead and manage Planning Services, Planning Policy, AONB, Conservation, Ecology, LSTF, Lead as Local Flood Authority, Housing, Building Control and Emergency Planning.</p> <p>To lead and manage Environmental Health, Trading Standards and Licensing and to take overall</p>



Statutory Roles	Chief Officer Post	Job Role and Service Delivery Objectives
		management of the Highways PFI contract.
	Director of Regeneration	<p>To be the Council's lead on Economy and Tourism to develop and promote economic growth for the Island including the attraction of inward Investment and development of commercial services.</p> <p>To lead and manage Economic Development, Tourism and Asset Management.</p>
Director of Children's Services	Director of Children's Services	<p>Provide strategic leadership and development of the local education and children's services sector. Working with head teachers, school governors and academy sponsors and principals to support the drive for high educational standards for all children and young people, paying particular attention to the most disadvantaged groups.</p> <p>Ensure that there are clear and effective arrangements to protect children and young people from harm, in accordance with primary legislation, particularly the Children Acts 1989 and 2004. Ensure that children's services are integrated across the council, and that statutory partners, the local voluntary and community sector, parents and children and young people themselves are included in the scope of the council's planning, commissioning and delivery of children's services where appropriate.</p> <p>Responsibility for undertaking a strategic needs assessment for children and their families with actual or potential needs across the local authority area in conjunction with the nominated Director of Social Services and Director of Public Health.</p> <p>To lead and manage services for children and young people including Education, Social Care, Safeguarding, Youth Service and Learning and Development. . Act as the professional advisor to members of the Council.</p>

Statutory Roles	Chief Officer Post	Job Role and Service Delivery Objectives
Director of Public Health	Director of Public Health	<p>Provide strategic leadership for the delivery of the Council's duties to improve public health together with those delegated functions by the Secretary of State for health protection or health improvement. Take the lead in exercising the Council's functions in planning for, and responding to, emergencies that present a risk to public health.</p> <p>Take the lead in the production of the Joint Strategic Needs assessment, Joint Strategy on Health and Wellbeing and deliver the annual public health report. Commission, or ensure the provision of service that underpin public and health improvement.</p>
Director of Adult Social Services	Director of Adult Social Care	<p>To act as the statutory Director of Adult Social Services</p> <p>Provide professional leadership for all council staff and those across local partnerships in the provision of adult social care services. Take accountability for ensuring that relevant professional and occupational standards and standards of conduct are maintained across adult social care services provided by, or commissioned by the Council. Responsibility for undertaking a strategic needs assessment for adults and families with actual or potential social care needs across the local authority area in conjunction with the Director of Children's Services and Director of Public Health.</p> <p>Ensure that there are clear and effective arrangements to assess and where necessary meet the care needs of eligible service users and to protect vulnerable adults from harm, in accordance with primary legislation, particularly the Care Act 2014 and Health and Social Care 2012. Ensure that adult services are integrated across the council, and that statutory partners, the local voluntary and community sector and service users themselves are included in the scope of the council's planning, commissioning and delivery of Adult Services where appropriate.</p>

Statutory Roles	Chief Officer Post	Job Role and Service Delivery Objectives
Chief Fire Officer	Chief Fire Officer	<p>Ensuring that the Council meets its legal responsibilities that an effective fire and rescue service is provided across the Island together with the provision, training and equipping of the Isle of Wight Fire and Rescue Service to undertake; firefighting, protection of people and property from fire, fire safety promotion, road traffic collision rescues and other emergency responses to civil emergencies.</p> <p>To lead and manage the Island's Fire and Rescue Services and to maintain them to meet statutory duties. Take the lead on community safety and play a major role in civil protection and ensuring that there is an integrated approach to handling civil emergencies.</p>
	Head of Resources	<p>To be accountable for the development of the council's core support services that will underpin the transformation of the council as a facilitating organisation including:</p> <ul style="list-style-type: none"> <li>• Leading and managing the Resources Directorate and the functions within it and be the Council's lead officer on organisational change, business support and all workforce matters</li> <li>• Leading on the delivery of the corporate plan priority of ensuring that all resources available to the Island are used in the most effective way in achieving the Island's priorities</li> </ul> <p>To lead and manage Professional HR advisory services (including equality and diversity and health and safety); Organisational development; Business intelligence and performance; Business Centre (including customer contact centre and exchequer services); ICT; commissioning and procurement; corporate governance (including democratic services and scrutiny functions); electoral registration and elections and legal services</p>
Monitoring Officer	Head of Legal Services	<p>Undertake the responsibilities of the Monitoring Officer as defined in law and the Council's Constitution. To act as the Council's chief legal advisor to ensure that the Council operates lawfully and within the agreed constitution and to report any unlawful acts or maladministration to the council. Also responsible for the Corporate Information Unit and acts as Data Protection Officer, SIRO (Senior identified risk officer) and Senior Responsible Officer (RIPA).</p>

Statutory Roles	Chief Officer Post	Job Role and Service Delivery Objectives
		To lead and manage Legal Services, to ensure statutory duties are met and that they are cost effective. To ensure that the Council's information management responsibilities are met effectively and within available resources.
Section 151 Officer	Chief Finance Officer and S151 Officer	<p>Undertake the responsibilities of the Section 151 officer as defined in law and the council's constitution. To act as the council's chief financial officer to ensure the proper administration of the council's financial affairs and that there are appropriate financial practices and procedures in place to meet these requirements.</p> <p>To lead and manage financial services and Audit; deliver a balanced budget and sustainable Medium Term Financial Strategy for the council within the context of the reducing resources available each year. To promote the development of improved financial practices and procedures, and improved financial control and business processes, to ensure services enabled and delivered by the council continue to be affordable.</p>
Returning Officer and Electoral Registration Officer	Strategic Manager for Organisational Change and Corporate Governance	To be the returning officer for local elections, acting returning officer for parliamentary elections and the local returning officer for the European Union elections (including the ability to appoint deputies for these roles). Also to be the electoral registration officer for the Isle of Wight.

# *PROCEDURE RULES FOR THE REGULATION OF PROCEEDINGS - FULL COUNCIL, EXECUTIVE, COMMITTEES AND SUB COMMITTEES*

## PROCEDURE RULE No. 1 MEETINGS OF FULL COUNCIL

1. Full Council
  - 1.1 Annual meeting
  - 1.2 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 May.
  - 1.3 The annual meeting will:
    - (i) elect a person to preside if the chairman of Council is not present;
    - (ii) elect the chairman of Council;
    - (iii) elect the vice chairman of Council;
    - (iv) approve the minutes of the last meeting;
    - (v) receive any declarations of interest from members;
    - (vi) receive any announcements from the chairman and/or head of the paid service;
    - (vii) elect the leader;
    - (viii) appoint at least one Scrutiny Committee and such other committees as the Council considers appropriate;
    - (ix) decide the size and terms of reference for those committees;
    - (x) appoint the chairman of the Scrutiny Committee and the chairman and vice chairman of any other committees or sub committees appointed by Council;
    - (xi) receive nominations of councillors to serve on outside bodies that are required to be appointed by the Council (if any);
    - (xii) re-affirm the scheme of delegation;
    - (xiii) approve a programme of ordinary meetings of the Full Council for the year; and
    - (xiv) consider any business set out in the notice convening the meeting.
  - 1.4 No member of the Council shall serve as chairman or vice chairman of the Council for more than one year unless the Council chooses, by resolution, to appoint a member for a second year to that same position.
  - 1.5 In the period after ordinary council elections and before the annual council any member who holds office within the council immediately prior to the election AND is re-elected, shall continue in that office until the date of the annual meeting.
  - 1.6 Ordinary meetings
  - 1.7 Ordinary meetings of the Council will take place in accordance with a programme determined at the annual meeting of the Council and notified in the summons for the meeting by the proper officer.

## 1.8 Ordinary meetings will:

- (i) elect a person to preside if the chairman and vice chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (v) consider any petitions submitted in accordance with the procedure in Article 4 (paragraph 5) of the constitution.
- (vi) receive any announcements from the chairman, or the head of paid service (total period for announcements shall not exceed 15 minutes);
- (vii) deal with any business from the last Council meeting;
- (viii) receive recommendations from the Executive and the Council's Committees or Panels;
- (ix) receive update reports from the leader and individual members of the Executive and receive questions and answers on any of those reports (or on policy and budget issues) (no executive member will speak for more than 3 minutes in making announcements); and
- (x) receive reports about and receive questions and answers on the business of external organisations.
- (xi) consider motions\*;
- (xii) consider any other business specified in the summons to the meeting\*;

\* items (xi) and (xii) can be considered alongside each other when appropriate.

## 1.9 Budget Meetings will consider the items as listed in 1.8 above. But the process for moving, debating, amending and voting on the budget options will be:

- (i) The Leader will be asked to move (with no debate at this stage) ALL budget proposals that have been submitted and this will be seconded.
- (ii) Full Council will then debate all the budget options as one debate with the Leader of the council speaking first and then the Leaders (or their nominees) of each group will be invited to speak for up to 15 minutes.
- (iii) Once each leader has had the opportunity to speak then any other member will be invited to speak for up to 3 minutes each.
- (iv) At the end of the debate, before the votes are taken, each Leader will be invited to sum up for up to 5 minutes each.
- (v) Then the Leader of the Council will be invited to formally move their recommended budget, and this will be seconded, then those members who had submitted alternative budget proposals will be invited (in the order in which the proposals were submitted) to move their proposals as an amendment, and without further debate those amendments will be voted on in turn, if an amendment is agreed then this becomes part of the original motion.
- (vi) The process detailed in para (v) above will continue until all budget proposals have been considered.
- (vii) Then the Council will vote on the substantive budget recommendation (ie that moved by the Leader of the Council including any amendments that the Council might have agreed).

## 1.10 Extraordinary Meetings of Full Council

- (i) A request may be made to the proper officer to call an extraordinary Full Council meeting by:
  - the Full Council by resolution;
  - the chairman of the council;
  - the monitoring officer; or
  - any five members of the council if they have signed a requisition presented to the chairman of the council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- (ii) The business to be transacted at an extraordinary meeting shall be restricted to the matter(s) for which the meeting was called as set out in the agenda and no other business shall be considered at the meeting.

1.11 The chairman can amend the order of business on the agenda and at the meeting as he/she sees fit.

## PROCEDURE RULE No. 2 MEETINGS OF THE EXECUTIVE, COMMITTEES AND SUB COMMITTEES

### 1. Meetings of the Executive, Committees and Sub Committees

1.1 Meetings of Executive, committees and sub committees will take place in accordance with a programme circulated by the proper officer.

#### 1.2 Meetings will:

- (i) elect a person to preside if the chairman and vice chairman are not present;
- (ii) approve the minutes or records of decision of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting, except that the Planning Committee and Licensing and Appeals Committee may not receive questions which are about matters for determination on their agenda;
- (v) the Scrutiny Committee will consider evidence from chief officers or their nominated representative in respect of petitions containing 2,500 or more signatures as described in the petition scheme (see [iwight.com](http://iwight.com));
- (vi) consider any other business specified in the summons to the meeting;
- (vii) the Scrutiny Committee may receive reports about and receive questions and answers on the business of external organisations;
- (viii) the Health Scrutiny Sub Committee may receive reports about and receive questions and answers on the business of the Isle of Wight National Health Service Trust;

### 1.3 Extraordinary meetings of the Executive, Committees and sub committees

- (i) A request may be made to the proper officer to call an extraordinary meeting by:
  - i. the chairman of the Executive, committee or sub committee in question;
  - ii. the monitoring officer; or
  - iii. the Executive, committee or sub committee by resolution
- (ii) The business to be transacted at an extraordinary meeting shall be restricted to the matter(s) for which the meeting was called as set out in the agenda and no other business shall be considered at the meeting.

### 1.4 The chairmen of the relevant meeting can amend the order of business on the agenda or at the meeting as he/she sees fit.

## PROCEDURE RULE No. 3 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by Annual Council (for Full Council meetings), Executive, Committees and sub committees (for their own meetings) and notified in the summons for the meeting as issued by the proper officer.

## PROCEDURE RULE No. 4 NOTICE OF AND SUMMONS TO MEETINGS

The proper officer will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least five clear working days before a meeting, the proper officer will send a summons for that meeting to every member of the council, Executive, Committee or sub committee 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.

## PROCEDURE RULE No. 5 CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman for that meeting.



## PROCEDURE RULE No. 6 QUORUM

1. Full Council
- 1.1 The quorum of a meeting of Full Council will be 10 members.
2. Executive, committees and sub committees
- 2.1 The quorum for each of the Executive, Committees, Sib Committees is as set out in their relevant article. In the absence of any number being specified then the quorum will be one quarter of the voting membership of the committee or sub committee, but will not be less than three.
3. For all meetings:
- 3.1 During any meeting, if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## PROCEDURE RULE No. 7 QUESTIONS BY MEMBERS OF THE PUBLIC

1. General – Full Council
- 1.1 Members of the public may ask a question at ordinary meetings of the council. The total time set aside for such questions and answers will be up to 15 minutes for previously submitted written questions, and a further period of up to 15 minutes for any oral questions submitted at the meeting. Questions will usually be answered by either the leader, or relevant executive member, or another member as determined by the chairman.
2. General – Executive, Committees and sub committees
- 2.1 Members of the public may ask a question at ordinary meetings of the Executive, committees or sub committees. Such a question must be within the remit of the meeting, except that questions may not be asked at meetings of the Planning Committee or Licensing Committee or Employment Committee which relate to items on the agenda for that meeting. At Executive meetings the total time set aside for such questions and answers will be up to 15 minutes for written questions and up to 15 minutes for oral questions. For all other committees and sub committees etc the maximum time for public questions (written and oral) will be up to 15 minutes. At meetings of the Executive, questions will usually be answered by either the leader, or relevant executive member, or another member as determined by the chairman.

3. Order of questions
  - 3.1 Questions will be asked in the order that notice was received, except that the chairman may group together similar questions.
4. Notice of questions
  - 4.1 To guarantee a reply at the meeting, members of the public must submit their question, by delivering it in writing or by electronic mail, to the proper officer no later than 48 hours (not including weekends or bank holidays) prior to the start of the meeting. Each question must give the name and address of the questioner. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting. Any written question received by the deadline will receive a written response.
5. Number of questions
  - 5.1 No person may submit more than one question at any one meeting, and no more than three questions may be asked on behalf of one organisation.
6. Scope of questions
  - 6.1 The proper officer must reject a question if it:
    - (i) is not about a matter for which the local authority has a responsibility or which affects the Isle of Wight;
    - (ii) is defamatory, frivolous or offensive;
    - (iii) is not a question but a statement;
    - (iv) relates to an individual or the questioner's own particular circumstances;
    - (v) is substantially the same as a question which has been put at a meeting of the Full Council, Executive, Committee or sub committee in the past six months;
    - (vi) requires the disclosure of confidential or exempt information; or
    - (vii) names or identifies individual service users, members of staff or members/staff of partner agencies.
  - 6.2 Democratic services will provide assistance and an advocacy service for members of the public wishing to submit written questions to council meetings. This service will provide objective advice on the structure and wording of questions and submit/ask the question on behalf of the member of the public should they wish it.
7. Record of written questions
  - 7.1 The proper officer will give a unique reference number to each written question received at least 48 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the electronic file maintained by the proper

officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of both the question and answer.

- 7.2 For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.
- 8. Asking written question at the meeting
  - 8.1 The chairman will invite the questioner to put the written question to the member named in the notice, in the order in which the written questions were received. If a questioner who wishes to ask a question prefers, their local member can ask the question on their behalf.
  - 8.2 If the questioner is not present then the chairman will decide whether the question should be read out and answered at the meeting.
  - 8.3 The chairman shall prevent any question which in his/her opinion would be inappropriate for the meeting.
- 9. Oral questions
  - 9.1 Full Council
  - 9.2 Members of the public wishing to ask an oral question should register their intention in accordance with the procedure set out in paragraph 13 below.
  - 9.3 A period of up to 15 minutes is set aside for members of the public asking oral questions. People asking an oral question must state their name and place of residence. If time permits, and at the chairman's discretion, oral questions that have not been registered in accordance with procedure rule 7 will be taken after all other questions have been considered.
  - 9.4 Minutes of the meeting will record who asked a question, the subject matter and the executive member who responded. If the executive member is unable to provide a response at the meeting they may provide a written response at a later date.
  - 9.5 The chairman may ask for any oral question to be submitted in writing.
  - 9.6 Executive, committees and sub committees
  - 9.7 At meetings of the Executive, members of the public wishing to ask an oral question should register their intention in accordance with the procedure set out in paragraph 13 below.
  - 9.8 For all other meetings, and if time allows, the chairman will ask if there are any oral questions. People asking an oral question must state their name and place of residence.
  - 9.9 Minutes of the meeting will record who asked a question, the subject matter and the Member who responded. If the Member is unable to provide a response at the meeting they may provide a written response at a later date.
  - 9.10 The chairman may ask for any oral question to be submitted in writing.

10. Supplemental question

- 10.1 A questioner who has put a question (either written or oral) 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 chairman may reject a supplementary question on any of the grounds in procedure rule 7 (6) above.

11. Written answers

- 11.1 Any written 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.
- 11.2 Where a reply cannot be provided at the meeting and a written response is promised then such a written response will usually be provided within 3 weeks, or an explanation will be given at that time as to why it is taking longer to get the response and when a final response may be ready.

12. Reference of question to the Executive, or any other committee or sub committee

- 12.1 Unless the chairman decides otherwise, no discussion will take place on any written 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.

13. Submission of oral questions to meetings of council and executive

- 13.1 The reception desk “opens” for public wishing to attend the meeting half an hour before the meeting.
- 13.2 When signing in at the reception desk as attending a Full Council or Executive meeting each member of the public is asked whether they wish to ask an oral question at the meeting AND / OR if the member of the public indicates themselves that they wish to ask an oral question.
- 13.3 In the circumstances that a member of the public wishes to ask an oral question, they be given a form to complete which details their name, town / village of residence, email (or home) address and the topic of the question (not the question in full, unless they wish to provide this).
- 13.4 These forms will be consecutively numbered in the order handed back.
- 13.5 The time for registering will be from 30 minutes prior to the start of the meeting up until 10 minutes prior to the start of the meeting.
- 13.6 At the expiry of the 10 minutes prior to the start of the meeting these sheets will be collected and given to the chairman of that meeting, in numbered order.

- 13.7 When the meeting gets to the agenda item for public questions, up to 15 minutes will be spent dealing with written questions, and then up to a further 15 minutes will be allowed for questions submitted on the day (oral questions). For oral questions, the chairman will ask those who have registered an oral question (in the numbered order that they were registered) to put their question and as the subject matter is known at that stage the chairman should be able to indicate which member will reply. Once the registered oral questions have been dealt with if time permits and at the discretion of the chairman any further oral questions will be put to the meeting by members of the public indicating that they have a question to ask.
- 13.8 The option of supplementary questions for both written questions and these registered oral questions will be available, at the Chairman's discretion.
- 13.9 A person who has submitted a written question will not also be able to submit an oral question at the same meeting.
- 13.10 Once the defined period of time allowed for questions has passed (and assuming the chairman has not extended this) then all unanswered oral questions are left at that (unless chairman exercises his / her discretion to extend).
- 13.11 No oral question will receive a guaranteed written response, unless the member responding indicates as such.

The procedure set out above, along with guidance information, will be made available from a web link to the agenda and also to those individuals who register to ask written or oral questions.

#### PROCEDURE RULE No. 8 QUESTIONS BY MEMBERS

1. General – Full Council
  - 1.1 Following the update reports from either the leader or executive members a member may ask questions of the members of the executive or the member on the Police and Crime Panel. No member shall, at any particular meeting, ask more than 3 questions of the leader, or each executive member or of the member on the Police and Crime Panel. Such questions must be restricted to the scope set out in paragraph (5) below and the chairman shall have the discretion to rule a question out of order if it falls outside this scope.
2. General – Executive, Committees and sub committees
  - 2.1 A member may ask members of the Executive, committee or sub committee a question at a meeting. Such a question must be within the remit of the meeting, except that questions may not be asked at meetings of the Planning Committee or Licensing Committee or Employment Committee which relate to items on the agenda for that meeting.

### 3. Copies of Questions

- 3.1 Where the question meets the requirements of paragraph (4) below, the proper officer will give a copy of each question to every Member attending the Meeting.

### 4. Notice of Questions.

- 4.1 To guarantee a reply at the meeting, members must submit their question, by delivering it in writing or by electronic mail, to the proper officer no later than 24 hours (not including weekends or bank holidays) prior to the start of the meeting. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting. Any written question received by the deadline will receive a written response.

### 5. Scope of questions

- 5.1 The proper officer must reject a question if it:

- (i) is not related to policy and budget issues;
- (ii) is not about a matter for which the local authority has a responsibility, or which affects the Isle of Wight;
- (iii) is defamatory, frivolous or offensive;
- (iv) is not a question but a statement;
- (v) relates to an individual or the questioner's own particular circumstances;
- (vi) is substantially the same as a question which has been put at a meeting of the Full Council, Executive, committee or sub committee, in the past six months;
- (vii) requires the disclosure of confidential or exempt information; or
- (viii) names or identifies individual service users, members of staff or members/staff of partner agencies.

### 6. Record of written questions

- 6.1 The proper officer will give a unique reference number to each written question received at least 24 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the electronic file maintained by the proper officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.
- 6.2 For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

7. Asking written questions at the meeting
  - 7.1 Full Council
  - 7.2 The chairman will invite the Member to put the written question to the executive member named in the notice. The question shall be put and answered by the relevant member of the Executive without discussion.
  - 7.3 The chairman shall prevent any question which in his/her opinion would be inappropriate for the Full Council.
  - 7.4 Executive, Committees and sub Committees
  - 7.5 The question shall be put and answered by the relevant member of the Executive, Committee, or sub committee without discussion.
  - 7.6 The answer to a member's question may be given orally or in writing.
8. Oral questions
  - 8.1 Full Council
  - 8.2 In addition to the above, members may ask questions of each member of the Executive without any notice except that the period allowed for these questions and answers shall be ten minutes for each member of the Executive.
  - 8.3 If there are oral questions outstanding at the end of this period they shall either be held over to the next meeting of the Full Council or dealt with by the relevant member of the Executive and/or officer outside the meeting.
  - 8.4 Minutes of the meeting will record who asked an oral question, the subject matter and the executive member who responded. If the executive member is unable to provide a response at the meeting they may provide a written response at a later date.
  - 8.5 Executive, Committees and Sub Committees
  - 8.6 In addition to the above, members may ask questions of the Executive, committee or sub committee without any notice except that the period allowed for these questions and answers shall be ten minutes.
  - 8.7 In the case of oral questions, the minutes of the meeting will record who asked a question, the subject matter and the member who responded.
  - 8.8 The chairman may ask for any oral question to be submitted in writing.
9. Supplemental question
  - 9.1 The member shall be allowed one further or supplementary question provided that it is relevant to the original question and does not introduce a new subject matter.

## 10. Written answers

- 10.1 Any written question which cannot be dealt with during member questions, 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.
- 10.2 Where a reply cannot be provided at the meeting and a written response is promised then such a written response will usually be provided within 3 weeks, or an explanation will be given at that time as to why it is taking longer to get the response and when a final response may be ready.
- 10.3 For the avoidance of doubt this rule does not apply to oral questions asked at a meeting.

## 11. Reference of question at Full Council to the Executive, committee or sub committee

- 11.1 Unless the chairman decides otherwise, no discussion will take place on any written 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.

## 12. Declined Questions

- 12.1 If in the view of the chairman the question asked (either in writing or orally) does not relate to policy or budget the chairman will decline to accept the question at the meeting and instruct that either a written reply be given after the meeting (and that this be recorded in the record maintained under sub paragraph 11); or that the question be directed to the relevant executive member or other committee outside the meeting. Where the chairman so directs for oral questions the questioner shall submit the question in writing.

### PROCEDURE RULE No. 9 MOTIONS ON NOTICE AT FULL COUNCIL

## 1. Notice

- 1.1 Except for motions which can be moved without notice under procedure rule 12, written notice of every motion, signed by the member submitting the notice to Full Council, must be delivered to the proper officer not later than 7 clear working days before the date of the meeting. Delivery can be by electronic means provided that the proper officer is satisfied that it has been sent by the member concerned. These will be maintained as an electronic list that can be made available for public inspection.

## 2. Motion set out in agenda

- 2.1 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 (email is acceptable), that they propose to move it to a later meeting or withdraw it.



### 3. Scope

- 3.1 Motions must be about matters for which the council has a responsibility or which affect the Isle of Wight and priority will be given to discussion and debate of issues of direct importance to the people of the Isle of Wight.
- 3.2 Any motion the subject matter of which comes within the province of the Executive or any another Committee may, after it has been moved and on the decision of the chairman:
- (i) be referred without discussion to the Executive or relevant committee; or
  - (ii) be referred without discussion to such other meeting as the chairman may decide:  
or
  - (iii) be dealt with at the meeting at which it is moved.

#### PROCEDURE RULE No. 10 MOTIONS AT FULL COUNCIL ON EXPENDITURE

Any motion which is moved at a Full Council meeting which would have the effect of materially increasing the expenditure upon any service or would involve capital expenditure shall, unless that motion has been previously considered by the Executive, stand adjourned without discussion to the next ordinary meeting of the Council, and the Executive shall consider whether it desires to report thereon back to the Full Council.

#### PROCEDURE RULE No. 11 MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any question arises on the appointment, promotion, dismissal, salary, superannuation, conditions of service or the conduct of any council employee, the meeting must not discuss it until it has considered whether to exclude the public under section 100A(4) of the Local Government Act 1972.

#### PROCEDURE RULE No. 12 MOTIONS WITHOUT NOTICE

1. The following motions may be moved without notice at full council, executive, committees or sub committees:
- 1.1 to appoint a chairman of the meeting at which the motion is moved;
  - 1.2 in relation to the accuracy of the minutes;
  - 1.3 to change the order of business in the agenda;
  - 1.4 to refer something to an appropriate body or individual;
  - 1.5 to appoint a committee or member arising from an item on the summons for the meeting;
  - 1.6 to receive reports or adoption of recommendations of committees or recommendations contained in reports or from officers and any resolutions following from them;
  - 1.7 to withdraw a motion;
  - 1.8 to amend a motion;
  - 1.9 to proceed to the next business;

- 1.10 that the question be now put;
  - 1.11 to adjourn a debate;
  - 1.12 to adjourn a meeting;
  - 1.13 to suspend a particular council procedure rule (except council procedure rules 11, 16 (6), 23(2) and 26);
  - 1.14 to exclude the public and press in accordance with the access to information rules;
  - 1.15 to not hear further a member named under rule 21.3 or to exclude them from the meeting under rule 21.4; and
  - 1.16 to give the consent of the council where it's consent is required by this constitution.
2. The chairman, with or without notice, may propose a resolution on any subject he may deem a matter of urgency and which is within the functions or powers of the meeting.

## PROCEDURE RULE No. 13 RULES OF DEBATE

### 2. General

2.1 Debates at Full Council are expected to follow this procedure rule. The procedure for the Full Council meeting that sets the budget differs as set out in procedure rule 13 (16) below.

2.2 However, debates at meetings of the Executive, Committees or sub committees may be less formal than debates at Full Council. The chairman of these meetings has the discretion to allow this informality, but in the event of dispute the process set out in this procedure rule will be followed.

### 3. No speeches until motion seconded

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

### 4. Right to require motion in writing

4.1 Unless notice of the motion has already been given in writing, and is not a procedural motion, the chairman will require it to be written down and handed to him/her before it is discussed.

### 5. Secunder's speech

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

### 6. Content and length of speeches

6.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed three minutes without the consent of the Chairman except that the mover of an original motion can speak for up to five minutes in

moving the motion and then a further period of five minutes in replying at the end of the debate.

## 7. When a member may speak again

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

- (i) to speak once on an amendment moved by another member;
- (ii) to move a further amendment if the motion has been amended since he/she last spoke;
- (iii) to speak on the main issue when their first speech was on a moved amendment;
- (iv) in exercise of a right of reply;
- (v) on a point of order; and
- (vi) by way of personal explanation.

## 8. Amendments to motions

### 8.1 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 nor have the effect of introducing a new subject into the motion.

### 8.2 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.

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

### 8.4 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.

### 8.5 After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 9. Alteration of motion

### 9.1 A member may alter a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

### 9.2 Only alterations which could be made as an amendment may be made.

## 10. Withdrawal of motion

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

## 11. Right of reply

- 11.1 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 11.2 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.
- 11.3 The mover of the amendment has no right of reply to the debate on his or her amendment.

## 12. Motions which may be moved during debate

- 12.1 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (i) to withdraw a motion;
  - (ii) to amend a motion;
  - (iii) to proceed to the next business;
  - (iv) that the question be now put;
  - (v) to adjourn a debate;
  - (vi) to adjourn a meeting;
  - (vii) to exclude the public and press in accordance with the access to information rules; and
  - (viii) to not hear further a member named under rule 21 (3) or to exclude them from the meeting under rule 21 (4).

## 13. Closure motions

- 13.1 A member may move, without comment, the following motions at the end of a speech of another member:
- (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- 13.2 If a motion to proceed to next business is seconded then the chairman shall immediately put this motion to the vote and if the majority of those voting are in favour the meeting will move immediately to the next item of business and there will be no further discussion (or decision) on the matter being considered.

- 13.3 If a motion that the question now be put, is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote. If the chairman considers that the item has not been sufficiently discussed then the chairman shall immediately put the motion to the vote.
- 13.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
14. Point of order
  - 14.1 A member may raise a point of order at any time. The chairman 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 point of law and the way in which he/she considers it has been broken. The ruling of the chairman on the matter will be final.
15. Personal explanation
  - 15.1 A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the chairman on the admissibility of a personal explanation will be final.
16. Non-members Invited to Speak
  - 16.1 That where non-members are invited to make presentations on matters being considered by the meeting they will also, at the Chairman's discretion, be invited to participate in any debate following the presentation other than the ability to move or second motions or vote thereon.
  - 16.2 At Executive meetings any non-executive member attending will be invited by the chairman to speak on the matter under discussion before the vote is taken.
  - 16.3

#### PROCEDURE RULE No. 14 STATE OF THE ISLAND DEBATE AT FULL COUNCIL

1. Calling of debate
  - 1.1 The leader of the council or the leader of another political group on the council may call a state of the island debate on a date and in a form to be agreed with the chairman.
2. Chairing of debate
  - 2.1 The debate will be chaired by the chairman.

### 3. Results of debate

#### 3.1 The outcome of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Executive in proposing the budget and policy framework to the Full Council for the coming year.

## PROCEDURE RULE No. 15 PREVIOUS DECISIONS AND MOTIONS

### 1. Motion to rescind a previous decision

#### 1.1 Full Council

1.2 A motion or amendment to rescind a decision made at a meeting of Full Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 members. Such notices can be submitted electronically provided that the proper officer is satisfied that it has been sent by the members concerned.

#### 1.3 Executive

1.4 A motion or amendment to rescind a decision made at a meeting of the Executive within the past six months cannot be moved unless the notice of motion is signed by at least one third of the membership of that meeting, and not less than three.

### 2. Motion similar to one previously rejected

#### 2.1 Full Council

2.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Full Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 10 members. Such notices can be submitted electronically provided that the proper officer is satisfied that it has been sent by the members concerned. Once the motion or amendment has been dealt with, no one can propose a similar motion or amendment for a further period of six months.

#### 2.3 Executive

2.4 A motion or amendment in similar terms to one that has been rejected at a meeting of the Executive in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the membership of that meeting, and not less than three. Once the motion or amendment has been dealt with, no one can propose a similar motion or amendment for a further period of six months.

## PROCEDURE RULE No. 16

### VOTING

1. Majority
  - 1.1 Unless this constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.
2. Chairman's casting vote
  - 2.1 If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.
3. Method of voting
  - 3.1 Full Council
  - 3.2 Voting on Budget and Council Tax Resolutions
  - 3.3 Any vote (including procedural and on amendments) relating to the budget setting and council tax decisions made by the Full Council will be undertaken by a named vote (by virtue of the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2014). The process for this is as set out below.
  - 3.4 Voting on other matters
  - 3.5 Votes on all matters, other than procedural points or the acceptance of amendments, will be undertaken by named votes.
  - 3.6 For all other matters voting will be by a show of hands (unless 4 members demand in accordance with existing procedure rule 16 (4)).
  - 3.7 Named voting procedure
  - 3.8 The procedure to be followed for named votes is that the chairman will ask all members to indicate, by raising their hand, if they are in favour of the motion, the proper officer will then call out the names of those indicating so that they can be counted and recorded. Then members who are against the motion will be asked to raise their hand and the proper officer will call out their names and these will be counted and recorded, and then members wishing to abstain will be asked to raise their hands and they will again be counted and recorded in the same way. At the conclusion of the voting the chairman shall announce the numbers of votes cast for, against and abstentions and announce whether the motion has been passed or lost.

### 3.9 Executive, committees and sub committees

- 3.10 Other than on procedural matters votes at the Executive will be by a named vote and recorded. For all other committees and on procedural matters the vote will be taken by a show of hands, or if there is no dissent, by the affirmation of the meeting.

### 4. Recorded vote

#### 4.1 Full Council

- 4.2 Where votes are about to be undertaken by a show of hands if four members present at the meeting demand it before the vote is taken, then the voting will be via a named vote under the same procedure as set out in procedure rule 16 (3).

#### 4.3 Executive, committee and sub committee

- 4.4 If three members present at the meeting demand it before the vote is taken, and the vote is not already due to be recorded, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes. The chairman will individually ask every member present to announce in a clear voice whether they are for or against the motion or amendment or wish to abstain. A demand for a recorded vote will override a demand for a ballot

### 5. Right to require individual vote to be recorded

- 5.1 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.

### 6. Voting procedure for appointments

- 6.1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Voting in respect of each appointment shall be by way of a recorded vote unless the meeting resolves that this procedure should not apply.

## PROCEDURE RULE No. 17 MINUTES AND RECORDS OF DECISION

### 1. Signing the minutes and records of decision

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



2. Minutes and record of decision of previous meeting at extraordinary meeting.
- 2.1 There is no requirement to sign the minutes or record of decision of a previous meeting at an extraordinary meeting.
3. Form of minutes
- 3.1 The minutes will contain all motions and amendments in the exact form and order the chairman put them. Unless a motion is approved without amendment in which case it will only appear as the resolution.

#### PROCEDURE RULE No. 18 RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance book/sheet before the conclusion of every meeting to assist with the record of attendance.

#### PROCEDURE RULE No. 19 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the access to information rules or procedure rule 22 (disturbance by public).

#### PROCEDURE RULE No. 20 RECORDING OF COUNCIL MEETINGS

In addition to the meeting being recorded by the Council any person or organisation can film or record (by any photographic or electronic means) the proceedings provided that:

1. The person so recording or filming does not disrupt the meeting in any way; and
2. Should any person present object to themselves being filmed then they shall not be so filmed.

#### PROCEDURE RULE No. 21 MEMBERS' CONDUCT

1. Speaking at meetings of full council
- 1.1 When a member speaks at Full Council, they may remain seated and address the meeting through the chairman. If more than one member wishes to speak, the chairman will ask one to speak and the others must remain silent.
2. Chairman standing
- 2.1 When the chairman stands during a debate, any member speaking at the time must stop.

3. Members' Interests
  - 3.1 Members must declare their interests if they arise during a meeting that they are attending. If the interest affects a matter in their register of disclosable interests or their register of interests they must leave the room during its consideration. Members can only stay to speak as a member of the public (where a member of the public is permitted to speak) if the monitoring officer has granted the member a dispensation to do so, but must leave the room as soon as they have finished speaking as a member of the public.
4. Member not to be heard further
  - 4.1 If a member persistently disregards the ruling of the chairman by behaving improperly or offensively or deliberately obstructs business, the chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.
5. Member to leave the meeting
  - 5.1 If the member continues to behave improperly after such a motion is carried, the chairman may either adjourn the meeting for a specified time or move that the member leaves the meeting. If, the motion that a member leaves the meeting is seconded, the motion will be voted on without discussion.
6. General disturbance
  - 6.1 If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as he/she thinks necessary.

#### PROCEDURE RULE No. 22 DISTURBANCE BY PUBLIC

1. Removal of member of the public
  - 1.1 If a member of the public interrupts proceedings, the chairman will warn the person concerned. If they continue to interrupt, the chairman will order their removal from the meeting room.
2. Clearance of part of meeting room
  - 2.1 If there is a general disturbance in any part of the meeting room open to the public, the chairman may call for that part to be cleared.

#### PROCEDURE RULE No.23 SUSPENSION AND AMENDMENT OF PROCEDURE RULES

1. Suspension
  - 1.1 All of these council procedure rules except 11 16(6), 23(2), 26 and 27 may be suspended by motion on notice or without notice if at least one half of those in attendance are in agreement. Suspension can only be for the duration of the meeting.

2. Amendment at full council only

- 2.1 At the discretion of the chairman any motion to add to, vary or revoke these council procedure rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the council. Unless such motion (or amendment) is submitted as part of the consideration of a written report circulated with the agenda that recommends such a change.

PROCEDURE RULE No. 24  
INTERPRETATION OF PROCEDURE RULE

Subject to receiving appropriate advice from the proper officer the ruling of the chairman as to the construction or application of any of these procedure rules, or as to any proceedings of the meeting, shall not be challenged at any meeting of the Full Council.

PROCEDURE RULE No. 25  
DURATION OF MEETINGS

Any meeting will end after 3 hours of the advertised start time unless half of the members in attendance vote to extend the meeting by up to one hour. Any remaining items of business, at the chairman's discretion, will either be: referred to an extraordinary meeting, or the next ordinary meeting or will simply fall for not being considered,

PROCEDURE RULE No. 26 (Mandatory)  
POLITICAL ASSISTANT

When the council is divided into different political groups the following will apply:

1. There shall be no appointment of any post allocated to a political group unless the Full Council has allocated such a post to each of the political groups which qualify for one;
2. No post to a political group will be allocated to groups that do not qualify for one; and
3. No more than one post will be allocated to any one political group.

PROCEDURE RULE No. 27 (Mandatory)  
DISMISSAL OF HEAD OF PAID SERVICE, MONITORING OFFICER  
AND CHIEF FINANCE OFFICER

1. In the following paragraphs -

- 1.1 *"the 2011 Act"* means the Localism Act 2011(b);
- 1.2 *"chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer"* have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- 1.3 *"independent person"* means a person appointed under section 28(7) of the 2011 Act;

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- 1.4 “*local government elector*” means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
- 1.5 “*the Panel*” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- 1.6 “*relevant meeting*” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- 1.7 “*relevant officer*” means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.
2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
4. In paragraph 3 “*relevant independent person*” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order -
  - 5.1 a relevant independent person who has been appointed by the authority and who is a local government elector;
  - 5.2 any other relevant independent person who has been appointed by the authority;
  - 5.3 a relevant independent person who has been appointed by another authority or authorities.
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular -
  - 8.1 any advice, views or recommendations of the Panel;
  - 8.2 the conclusions of any investigation into the proposed dismissal; and

- 8.3 any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act."

PROCEDURE RULE No. 28  
SUBSTITUTE MEMBERS AT PLANNING COMMITTEE

1. Subject to the following provisions, any Member may be nominated to act as a standing deputy for a member of the same Political Group to allow them to attend a meeting of a planning Committee if an existing member, of the same political group, of the planning committee is genuinely unable to attend.
2. Subject to the express wishes of the planning Committee, a substitute must be selected in consultation with the monitoring officer, or her deputies, to act as standing deputy by:
  - 2.1 the Leader of the relevant Political Group, or
  - 2.2 other person or persons nominated by the Leader to act in this capacity.
3. Once a deputy member is nominated then they shall remain as a the nominated standing deputy for their political party until the end of their term of office, the planning committee or full council indicate to the contrary or the leader (or their deputy) notifies the monitoring officer to the contrary.
4. No more than 3 deputy members may be appointed for each political group.
5. Members will not act as a deputy on the planning committee unless they have received the necessary mandatory planning training.
6. Attendance of a deputy at a forthcoming meeting must be notified in writing to the Monitoring officer or her representative no later than 2 working days before the scheduled planning committee site visits.
7. A declaration will be made by the monitoring officer or clerk to the meeting at the start of the meeting to the effect that Member "X" is deputising for Member "Y".
8. Deputy Members will have all the powers and duties of any ordinary member of the planning Committee.
9. Deputy Members may attend meetings in that capacity only;
  - 9.1 to take the place of the ordinary Member for whom they are deputising; and
  - 9.2 after notifying the monitoring officer

10. Once a deputy has been appointed, the ordinary Member cannot act as a member of the committee which includes being prohibited from voting, speaking or debating at the meeting even if he/she is able to attend at a later stage of the meeting.
11. A deputy member who acts in the absence of the Chair or Vice-Chair may not undertake the role of Chair or Vice-Chair as the case may be, unless appointed in that capacity by the planning committee.

# **ACCESS TO INFORMATION RULES**

## **1. Scope**

- 1.1 These rules apply to all meetings of the Full Council, the Executive, select committees, the Scrutiny Committee, regulatory committees and any sub committees thereof (together called meetings).

## **2. Additional rights to information**

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

## **3. Rights to attend meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

## **4. Notices of meeting**

- 4.1 The council will give at least five clear working days' notice of any meeting by posting details of the meeting at County Hall, Newport, or if a meeting is convened at less than five working days' notice as soon as it is convened.

## **5. Access to agenda and reports before the meeting**

- 5.1 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 working days before the meeting, or if a meeting is convened at less than five working days' notice as soon as it is convened. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

## **6. Supply of copies**

- 6.1 The council will supply copies of any agenda and reports and background papers which are open to public inspection to any person, electronically (wherever possible) or, on payment of a charge for copying and postage, in hard copy.

## **7. Access to minutes/decision record after the meeting**

- 7.1 The council will make available copies of the following for six years after a meeting:
  - (i) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- (ii) 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;
- (iii) the agenda for the meeting; and
- (iv) reports relating to items when the meeting was open to the public.

## **8. Background papers**

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

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

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

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

### **8.3 Public inspection of background papers**

8.4 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**

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Newport.

## **10. Exclusion of access of press and public to meetings**

### **10.1 Confidential information - requirement to exclude press and public**

10.2 The press and 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. This includes exclusion of any means by which a person may report using methods which can be carried out without that person's presence.

### **10.3 Exempt information - discretion to exclude press and public**

10.4 The press and 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. This includes exclusion of any means by which a person may report using methods which can be carried out without that person's presence.



- 10.5 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 it is necessary for one of the reasons specified in Article 6 for the meeting to go into private session.
- 10.6 Meaning of confidential information
- 10.7 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.
- 10.8 Meaning of exempt information
- 10.9 Exempt information means information falling within the following 10 categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	See para (i) and (ii) below table.
2. Information which is likely to reveal the identity of an individual.	See para (i) and (ii) below table.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under – (a) The Companies Act 1985; (b) The Friendly Societies Act 1974; (c) The Friendly Societies Act 1992; (d) The Industrial and Provident Societies Acts 1965 to 1978; (e) The Building Societies Act 1986; or (f) The Charities Act 1993.  See also para (i) and (ii) below table.
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.	See para (i) and (ii) below table.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See para (i) and (ii) below table.

Category	Condition
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.	See para (i) and (ii) below table.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See para (i) and (ii) below table.
8. Information which is subject to any obligation of confidentiality	See also para (i) and (ii) below table.
9. Information which relates in any way to matters concerning national security	

- (i) Information which falls into the table above that is not prevented from being exempt by virtue of the conditions shown is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (ii) Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

## 11. **Exclusion of access by the press and public to reports**

- 11.1 If the proper officer thinks fit, the council may exclude access by the press and 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.

# ***BUDGET AND POLICY FRAMEWORK RULES***

## **1. Framework**

- 1.1 The Full Council is responsible for the adoption of its budget and policy framework as set out in Article 4. Once or to the extent that a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

## **2. Process for developing the framework**

- 2.1 The Executive will publicise by including in the forward plan and any other appropriate means depending upon the circumstances a timetable for making proposals to the Full Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
- 2.2 Following consultation (including policy debates by Full Council where relevant) the Executive will then draw up firm proposals having regard to the responses to that consultation. The Executive will take any response from the Scrutiny Committee into account in drawing up proposals for submission to the Full Council, and its report to the Full Council will reflect the comments made by consultees and the Executive response.
- 2.3 Once the Executive has considered the proposals these will then be referred to the Full Council, at the earliest opportunity, for decision.
- 2.4 In reaching a decision, the Full Council may adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration, or indicate that it wishes to substitute its own proposals in their place.
- 2.5 If it accepts the recommendation of the Executive without amendment or is formally setting the Budget or Council Tax levels for a financial year, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision.
- 2.6 The decision will be published in accordance with article 13 and a copy shall be given to the leader and members of the Executive.
- 2.7 An in-principle decision in relation to the budget, plan or strategy will automatically become effective 5 working days from the date of the Full Council's decision, unless the leader informs the proper officer in writing, within 5 working days that he/she objects to the decision becoming effective and provides reasons why. The leader may also decide to call a special meeting of the Executive to discuss the issue.
- 2.8 Upon receiving written notification from the leader, the proper officer will make arrangements to call a Full Council meeting within a further 7 working days. The council will be required to re-consider its decision and the leader's written submission within 14 working days. The Full Council may:

- (i) Approve the Executive recommendation; or
- (ii) Approve a different decision which does not accord with the recommendation of the Executive.

2.9 The decision shall then be made public in accordance with article 13, and shall be implemented immediately.

### **3. Decisions outside the budget or policy framework**

3.1 Subject to the provisions of paragraph 5 (virement) the Executive may only take decisions which are in line with the budget and policy framework. If Executive wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Full Council, subject to 4 below.

3.2 If the Executive want to make such a decision, it shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred to the Full Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. Urgent decisions outside the budget or policy framework**

4.1 The Executive may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the Full Council; and
- (ii) if the chairman of the Scrutiny Committee agrees that the decision is a matter of urgency.

4.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the chairman of the Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of the Scrutiny Committee, the consent of the chairman of the council or in his or her absence of the vice chairman will be sufficient.

4.3 Following the decision, the Executive will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **5. Virement**

5.1 There are detailed provisions concerning virement across budget heads and these are set out in the council's financial regulations.

## **6. In-year changes to policy framework**

6.1 The responsibility for agreeing the budget and policy framework lies with the Full Council, and decisions by the Executive must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (i) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (ii) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (iii) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Full Council following consultation, but where the existing policy document is silent on the matter under consideration. Although as set out on page 19 minor amendments can be made in certain circumstances by the relevant chief officer.

# *PLANNING, LICENSING AND APPEALS COMMITTEES' RULES*

## **1. Business**

- 1.1 At each meeting of the committees the following business will be conducted:
- (i) Approval of the minutes from the last meeting;
  - (ii) Declarations of interest;
  - (iii) An opportunity for the public to ask questions of the chairman in accordance with the procedure rules;
  - (iv) Matters set out in the agenda for the meeting;
  - (v) Any urgent item of business which is not included on an agenda but the chairman, after consultation with head of Planning and housing services , agrees should be raised;
  - (vi) An opportunity for members of the committee to ask questions of the chairman in accordance with the procedure rules.

## **2. Decisions**

- 2.1 Decisions will be taken in accordance with the procedure rules and access to information procedure rules.
- 2.2 Voting will be by the show of hands, a simple majority prevails and in the event of a tied vote the chairman will have a casting vote.
- 2.3 All business shall be conducted in accordance with the members' code of conduct, the protocol on member/officer relations and, particularly,
- (i) the code of practice for councillors and officers dealing with planning matters;
  - (ii) the code of practice for councillors and officers dealing with licensing matters.

## **3. Written representations**

- 3.1 Written representations received within the published timetable will be summarised in written reports placed before the regulatory committees or their sub committees.
- 3.2 Late representations will be summarised and circulated to the regulatory committees or their sub committees at the time of the meeting. Where appropriate and necessary the meeting will adjourn at the discretion of the chairman to consider whether it is fair and lawful to accept the late representation, and if accepted to read through such representations.

#### **4. Delegation**

- 4.1 Terms of reference of the regulatory committees are determined by Full Council.
- 4.2 The regulatory committees can delegate any of their functions to sub committees or officers unless prohibited by law.
- 4.3 Regulatory committees or their sub committees may at any time make recommendations about changes either to the terms of reference or the scheme of delegations.

#### **5. Adoption of policy**

- 5.1 Policy development and adoption is principally the responsibility of the Executive. Occasionally Executive may seek the views of the regulatory committees or their sub committees prior to adopting, or recommending to Full Council the adoption of any policies relating to either licensing or planning matters.

#### **6. Site visits**

- 6.1 Site visits for licensing matters will be organised when deemed necessary by the head of Place or at the request of the chairman. All members of the relevant regulatory committee or sub committee will be notified.
- 6.2 Planning site visits will normally take place on the Friday prior to the Planning Committee meeting (except where an alternative date is agreed between the chairman and the head of planning and housing services). The need for visits will be agreed by the head of planning and housing services in consultation with the chairman.
- 6.3 No debate or decision regarding the application should be taken at the site visit.
- 6.4 The purpose of a site visit is for members of the regulatory committees to gain knowledge of the site/premise involved in the application. A site visit should only be made where an objective decision cannot be made without a site visit
- 6.5 The applicant (or their agent) shall be formally notified in writing of the site visit. The applicant (or their agent) will be asked to notify the committee administrator at the earliest possible date if they have any objections to the proposed visit.
- 6.6 Authorised attendance at a site visit shall be limited to members of the regulatory committees or their relevant sub committee, the local member (if not a member of the committee/sub committee), relevant council officers and where practicable other relevant parties who have made a relevant representation and the applicant/agent.
- 6.7 Only those members attending the site visit will be able to consider and vote on the matter when the regulatory committees or one of their sub committees formally meets to consider the matter.
- 6.8 Site visits are open to the public and press but access to any site is subject to permission being granted by the landowner or their agent.

- 6.9 The head of planning and housing services or Head of Place (or his representative) will summarise the issues which have led to the site visit and draw attention to any salient points but there will be no discussion on the merits of any application during the site visit although, of course, members may ask questions and request clarification on individual points.
- 6.10 Members will follow the chairman of the regulatory committee or their sub committee, accompanied by the relevant officer(s), on the site. Members should form and continue to form a single group. The applicants (or their agents) and members of the public shall not be permitted to make representations to members during a site visit. As an exception to the rule, however, the applicant/agent may, with the permission of the chairman, give any purely factual information which is required by members and which cannot be ascertained by viewing alone. Such information shall be relayed through the head of planning and housing services or Head of Place (or his representative).
- 6.11 The application will be determined at a meeting which will take place at the earliest opportunity following the site visit.

## **7. Hearing of licensing applications/issues**

- 7.1 All applicants, agents, supporters (where known) and objectors shall be sent copies of the agenda and relevant papers.
- 7.2 Anyone wishing to address the Licensing Committee or its sub committee in respect of an application or other licensing matter can be legally represented.
- 7.3 Consideration of applications or licensing matters shall be in accordance with statutory procedures or common law rules of natural justice as recommended by the head of Legal Services and monitoring officer.
- 7.4 The Licensing Committee or its sub committee (when acting as the statutory licensing committee or subcommittee) may exclude the public from all or part of the hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or part of the hearing, taking place in public. A party and any person assisting or representing a party may be treated as a member of the public. For all other determinations members of the public and press may be excluded in accordance with the council's access to information rules.
- 7.5 All persons, except for the Licensing Committee or sub committee members, clerk to the committee or sub committee and lawyer may be asked to withdraw from the room whilst the committee or sub committee decides the matter in private. Upon reconvening in public the chairman will announce the Licensing Committee's or sub committee's decision and the reasons for this.



## **8. Complex/sensitive licensing act 2003 applications**

- 8.1 The Licensing Committee will convene to consider complex/sensitive applications made under the Licensing Act 2003 in accordance with the scheme of delegation.
- 8.2 The decision to refer applications to the Licensing Committee and not to the Licensing (Determinations) Sub Committee will be at the discretion of the head of Place in consultation with the chairman of Licensing Committee. Applications could include those:
- (i) Large events where the expected number of attendees, staff and performers will exceed 5,000 persons at any one time;
  - (ii) Applications or reviews where the sub committee decide require consideration of the full committee;
  - (iii) Applications or reviews which in the opinion of the head of place, in consultation with the chairman of the committee, should be considered by the full committee.

# **FINANCIAL PROCEDURE RULES**

## **1. Purpose of financial regulations**

- 1.1 Financial regulations are part of the range of internal control systems which the council has put in place to ensure that risks to the delivery of its objectives are minimised.
- 1.2 They set out the roles and responsibilities of the Full Council, the Executive and senior officers in respect of financial management, and are supported by more specific financial procedures providing guidance to all those involved in financial transactions.
- 1.3 Schools with delegated budgets are subject to a separate framework of regulation.
- 1.4 These financial procedure rules are approved by the Full Council and will be subject to annual review as part of the overall review of the constitution.

## **2. Budget Setting**

- 2.1 The approved revenue and capital budgets are the financial expression of the council's service delivery plans. The budgets and associated financing implications are approved each year by Full Council, on the basis of recommendations from the Executive, and after having regard to the results of stakeholder consultation.
- 2.2 Full Council may approve overall capital service allocations but leave the selection of individual schemes to the Executive.
- 2.3 Approval of revenue and capital budgets as above confers authority on the Executive, chief officers to spend up to the net sums specified for each of the services within their remit, as set out within the financial information system.
- 2.4 Changes to the budget may be agreed by chief officers in consultation with Executive members and the chief financial officer, provided that there is:
  - (i) No resulting reduction in the general reserve
  - (ii) No material reduction in service levels
  - (iii) No resulting un-financed increase in commitments in future yearsFull Council approval is required for other budget changes.
- 2.5 Unspent budgets may be carried forward into the next financial year with the approval of the chief financial officer. Overspendings will be a first call against the following year's budget.

### **3. Duties and Responsibilities of Elected Members**

- 3.1 The Executive is responsible for proposing a budget and for the strategic delivery of services within approved budgets and the approved policy framework. Full Council sets the budget and also the policy framework. The Executive shall receive in-year budget monitoring information and ensures that any remedial action is taken.
- 3.2 The Scrutiny Committee has a responsibility to review and assist with resolving the financial issues it regards as most benefiting from its input.
- 3.3 The Scrutiny Committee will pursue work programmes developing specific policy and strategic solutions to longer term issues, including those with a financial context.

### **4. Duties and responsibilities of the Chief Financial Officer**

- 4.1 The chief financial officer has particular statutory and common law responsibilities which are incorporated in the following:
- (i) Proper administration of the council's financial affairs
  - (ii) setting and monitoring compliance with accounting and financial management procedures and standards
  - (iii) implementing the council's duty to maintain an effective and adequate internal audit
  - (iv) advising on the corporate financial position, including the robustness of the budget and the adequacy of reserves
  - (v) giving financial advice on all reports considered by the Executive
  - (vi) determining financing of capital and revenue budget items in the best financial interests of the council
  - (vii) prescribing key financial controls and where necessary, the format of the council's financial records
  - (viii) providing financial information
  - (ix) co-ordinating forward revenue and capital plans and monitoring delivery
  - (x) treasury management and all banking arrangements
  - (xi) arrangements for the disbursement of the council's payments in respect of creditors, staff and partners
  - (xii) arrangements for the collection of income due to the council as identified by chief officers and their staff
  - (xiii) advising the Pension Fund Committee

## **5. Duties and responsibilities of Chief Officers**

- 5.1 This section sets out the financial management responsibilities of chief officers. Most or all tasks will be delegated to heads of service who may in turn further delegate to more junior staff. The general presumption is that decisions should be taken at the lowest appropriate level, but it should be kept in mind that whilst tasks can be delegated, chief officers remain jointly and severally responsible for compliance. Responsibilities include the following:
- 5.2 Deploying budget resources to deliver the council's objectives in the most economically advantageous way, and reporting on performance as required.
- 5.3 Ensuring that expenditure and income are monitored on at least a monthly basis and that:
- (i) service cash limits are not exceeded
  - (ii) future expenditure commitments are constrained to matching resources
  - (iii) an 'exit strategy' is in place for projects funded from non-recurring or declining income streams
  - (iv) potential overspends are reported to the chief financial officer, corporate management team, and the Executive if appropriate, together with proposals for remedial action.
- 5.4 Producing and implementing medium term service plans which incorporate:
- (i) Revenue and capital bids prioritised in terms of corporate objectives
  - (ii) Least harmful responses to corporate savings requirements
  - (iii) Analysis of risks to service delivery and business continuity planning
  - (iv) Forthcoming procurements and other significant projects. Application of the council's risk assessment and 'gateway' process where appropriate
  - (v) Maximisation of income through charging and trading, as well as any other sources of additional funding
  - (vi) Business cases in support of spend to save and prudential code projects
  - (vii) Contributions to the council's medium term financial plan
- 5.5 Ensuring value for money through delivery of the council's efficiency savings targets, and by benchmarking unit costs and performance against other organisations on an annual basis.

- 5.6 Developing partnerships where these provide clear advantages to service quality or efficiency, subject to:
- (i) Clear definition of the benefits expected
  - (ii) Robust monitoring arrangements
  - (iii) Clarity in the way risk is to be minimised and shared
  - (iv) A viable exit strategy
  - (v) Corporate approval where size or degree of risk warrants
- 5.7 Maintaining accounting records and audit trails in a form acceptable to the chief financial officer, together with a documented scheme of delegation and authorised signatories. Each account and budget head to have a named responsible officer.
- 5.8 Ensuring that financial systems in operation, and any changes thereto, are approved by the chief financial officer, and that statutory taxation requirements are adhered to.
- 5.9 Minimising the possibility of loss through error, theft or fraud, or misuse of council assets, and the risk of litigation, damage to the council's reputation and its interests. This includes:
- 5.10 Applying risk management techniques in order to reduce risk to optimal levels
- 5.11 Keeping the chief financial officer informed about existing, new or changing risks, both insurable and uninsurable
- 5.12 Providing assurance that the system of internal control is operating effectively within their service areas and if not what remedial action they propose. Such assurance will form the basis of the council's statement of internal control.
- 5.13 Applying the principles of segregation of duties, such that wherever possible, more than one individual is involved in managing the council's financial transactions

## 6. Other Policies and Guidance

- 6.1 There are a number of policies and guidance notes which chief officers are responsible for drawing to the attention of staff where necessary. The table below lists many of the documents and provides guidance on who needs to be aware of them in each case.

Document	Required reading by:
Asset management plan	Officers involved in investment planning
Capital strategy	Officers involved in investment planning
Code of conduct	All staff and members

Document	Required reading by:
Contract standing orders	Officers ordering goods or services, officers and managers who procure and manage contracts
Counter fraud policy	All managers and supervisors
Medium term financial plan	Service and budget planners
Procurement guidance	Officers ordering goods and services officers and managers who procure and manage contracts
Risk management framework	All managers
Financial Procedures and Guidance:	
Anti-money laundering policy	Staff involved in income collection
Accounting standards and practice notes	Budget managers
Banking arrangements	Budget managers
Managing the council's financial resources (Treasury Management)	Managers and staff involved in treasury management
Controlled (financial) stationery	Staff involved in systems using controlled financial stationery
Payment services guidance	Staff dealing with creditor payments
Insurance	All managers
Principles of segregation of duties	Managers
Sundry income policy	Staff involved in income collection
Transactions with staff and members (including remuneration and the reimbursement of expenses)	All managers and supervisors
Use of corporate financial systems	All managers
Receiving income	Staff involved in income collection
Protecting the council's assets (including: disposal)	All managers
Asset records	All managers
Partnerships	All managers and staff involved in partnerships
Retention of financial records	All managers
Dealing with fraud and irregularity	All managers and staff
Authorisation of transactions, delegation of financial authority	All managers and staff

Document	Required reading by:
Accounting for voluntary funds	All managers and staff involved in administering voluntary funds
Emergency provisions	All managers and staff
Miscellaneous financial procedures	All managers and staff

# *ISLE OF WIGHT COUNCIL CONTRACT STANDING ORDERS*

1. **Definitions and Interpretation**
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  - 2.1 Key Principles
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  - 2.3 Scope and Application
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  - 4.1 Approvals
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    - (i) Procurement Process for Spend Between **£0 - 10,000**
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  - 4.4 Procedure on Receipt of Quotes and Tenders
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5. **Corporate Contracts**
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9. **Equality and Diversity**
10. **Waivers**
11. **Collaborative Working**

**TABLE 1: Summary of Procurement Processes**



## 1. Definitions and interpretation

In these Contract Standing Orders (CSOs) the following words and expressions shall have the following meanings:

Approved List	means a list of Suppliers drawn up following a suitable competitive process
Board	means the Procurement Board and/or its replacement or successor boards or committees
Contract	means any agreement for the supply of goods, services, or the execution of works to or for the council including the use of consultants; any Framework Agreement; or any agreement where no payment is made by the Council but which is of financial value to the Contractor (e.g. a catering concession)
Contracts Database	means the central record of contracts held by the council
Contract Notice	means an advert and/or call for competition
Contracts Store	means the central store of contracts held by the council
CSOs	means the Isle of Wight Council's Contract Standing Orders
Council	means the Isle of Wight Council
Delegated Officer	means any of the posts identified in Article 15 of the council's Constitution
Evaluation Panel	means a group of persons with knowledge and experience of the contract who are able to evaluate tender submissions in accordance with the evaluation criteria set out in the tender documentation
Executive Member	means a member with a portfolio of responsibility
Framework Agreement	means an agreement with Suppliers that sets out the terms and conditions under which specific purchases can be made, and can either be set up by the council or another contracting authority
Grant	means an agreement giving financial assistance to an individual or organisation with no supply of goods or services, or execution of works, in return
Invitation to Tender	("ITT") the process whose purpose is to invite Suppliers into a bidding process to bid on specific goods, works or services where the contract value is over £100,001
Member	means an elected member of the Isle of Wight Council
Officer	means any officer of the council designated by his/her Head of Service to purchase goods/services/works/let a contract

Procurement Team	means the service designated to give procurement advice to the council
Quote	a submission by a Supplier setting out the delivery method and cost for a particular Contract where the whole life value is below £100,000
Request for Quotation	("RFQ") the process whose purpose is to invite Suppliers into a bidding process to bid on specific goods, works or services where the contract value is between £25,001 - £100,000
Service Manager	means a council Officer with management responsibility for the service area
Specification	means the document that clearly, accurately and completely describes in detail what the council intends to purchase
Standstill	a period of at least ten calendar days following the notification of an award decision in a Contract tendered via the Official Journal of the European Union, before the contract is signed with the successful supplier(s)
Supplier	means the supplier of goods and/or services and/or works through a contract let by or on behalf the council or any supplier bidding/tendering for such contract
Tender	a formal submission in response to an ITT by a Supplier setting out the delivery method and cost for a particular Contract

## 2. Introduction

### 2.1 Key Principles

- (i) These CSOs are made pursuant to section 135 of the Local Government Act 1972 and will be reviewed by the Head of Legal Services on an annual basis.
- (ii) CSOs are based on the following key principles:
  - To achieve good value for money through appropriate market competition, so that we offer best value services to Isle of Wight residents;
  - To be transparent to our residents about how we spend their money through our procurement processes;
  - To ensure compliance with the legislation and regulations which govern the spending of public money;
  - To ensure against any criticism or allegation of wrongdoing in the buying of goods and services or in the commissioning of works;
  - To support sustainability and social value objectives, our public sector equality duty, and encouraging local businesses on the Isle of Wight.

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## 2.2 Compliance

- (i) These CSOs form part of the council's Constitution and in the event of a failure to comply with the CSOs, the council may invoke its disciplinary policy and procedure depending on all the circumstances of any such failures.
- (ii) These CSOs are applicable to both Members and Officers.
- (iii) Consultants acting on behalf of the council are required to operate in accordance with these CSOs and it is the responsibility of the Officer contracting with the consultant to ensure such compliance.
- (iv) Every person involved in any procurement process has a responsibility to declare any links or personal interests that they may have with potential Suppliers.
- (v) Every contract to be entered into on behalf of the council:
  - must be in accordance with the council's lawful functions and within the bounds of its statutory powers;
  - must comply with domestic legislation, common law and the relevant EU Directives;
  - must be let with integrity and fairness throughout and with sufficient openness to engender public and market confidence in the procurement process;
  - must demonstrate that value for money is being obtained having regard to an appropriate and realistic balance between price, quality and service considerations;
  - must, unless there is sufficient reason to the contrary, which must be approved in advance by the Board, be let through a reasonable show of competition; and
  - must align/comply with the council's corporate plan, its procurement strategy and any other standing orders, regulations, policies and procedures of the council, insofar as they are directly relevant to that contract.
- (vi) In the event that there is any conflict or inconsistency between the provisions of CSOs and any legal requirement, the legal requirement shall prevail.

## 2.3 Scope and Application

- (i) These CSOs are the rules that must be followed when buying goods or services or engaging a Supplier to carry out of works on behalf of the council and refer to the selection, award and entry into any contract by the council and by any person or representative acting on behalf of the council or council partnership.

- (ii) Apart from the exemptions listed below, these CSOs cover all spend with external Suppliers regardless of how they are funded (for example, revenue, capital, grants, ring-fenced government money and/or any third party funding).
- (iii) The following are not caught by the requirements of the CSOs:
- contracts for permanent or fixed-term employment;
  - contracts solely relating to the purchase or lease of land;
  - transactions conducted by the Chief Financial Officer and/or the S.151 Officer in respect of dealing in the money market or obtaining finance for the council;
  - direct payments to customers following care assessment (for example, payments under Self-Directed Support or Personal Budgets);
  - non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies;
  - fees for external auditors;
  - contracts that can properly be regarded as a Grant or internal service level agreements;
  - a declared emergency authorised by the Emergency Planning Officer and/or Duty Senior Officer.

### **3. Contract value and aggregation**

- 3.1 The estimated value of a Contract shall be the total value of the Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract, including all extension options, by the council to the Supplier. Where the Contract is one where no payment is made by the council (e.g. a concession) a best estimate of the financial value to the Supplier shall be ascertained.
- 3.2 Where the Contract period is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be for a period of four years.
- 3.3 The estimated value of a Framework Agreement is the total value of all the Contracts which could be entered into by the council and other contracting authorities during the lifetime of the Framework Agreement.
- 3.4 Purchases of the same or similar goods, works or services must be aggregated wherever practicable, including repeat purchases of the same or similar goods, works or services year on year. Contracts must not be artificially separated so as to circumvent the application of any part of CSOs, the Public Contracts Directive 2014/24/EU or the Public Contracts Regulations 2015.

## **4. Letting contracts for goods, services and works**

### **4.1 Approvals**

- (i) The commencement of a procurement process for a Contract is subject to the prior approval of the relevant Delegated Officer who has the authority to give such approval under the Constitution. The giving of approval is subject to the expenditure involved having been included in approved estimates and sufficient budgetary provision having been made in the council's capital programme or revenue budget.
- (ii) Where relevant, proportionate and timely consultation shall take place with elected Members prior to commencing the procurement process.
- (iii) Where a contract has a whole life value of over £1.5m or is deemed to be of particularly high risk, sensitive or likely to have a substantial effect on the council's corporate priorities or its reputation, consultation with the designated Executive Member will be required and the Executive may be required to give its approval to the procurement proceeding and/or the subsequent Contract award. This will be at the discretion of the Member and Delegated Officer.

### **4.2 Pre-Procurement Market Research/Consultation**

- (i) Before commencing a procurement process, Officers may conduct market consultations with a view to preparing the procurement and informing Suppliers of their procurement plans and requirements.
- (ii) For this purpose, Officers may, for example, seek or accept advice from independent experts or authorities or from market participants.
- (iii) Such advice may be used in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.
- (iv) Where a Supplier, or an undertaking related to a Supplier has advised the council or has otherwise been involved in the preparation of the procurement procedure, the Officer shall take appropriate measures to ensure that competition is not distorted by the participation of that Supplier such as the communication to the other Suppliers of relevant information exchanged in the context of or resulting from the involvement of the Supplier in the preparation of the procurement procedure.
- (v) The Supplier concerned shall only be excluded from the procurement procedure where there are no other means to ensure compliance with the duty to treat Suppliers equally.

## 4.3 Advertising and Competition Requirements

### (i) Procurement Process for Spend between £0-£10,000

- Where the evidence based estimated value of a proposed Contract (including all extensions) does not exceed £10,000, the Officer may contract with any Supplier that they consider competent to provide a proven best value solution.
- Officers should search the market for a suitable Supplier, and must obtain one quote; however, to ensure best value, it is advisable to seek further quotes. If they offer best value, Officers should use an Isle of Wight based Supplier.
- The conditions of contract will be the council's standard terms and conditions which are linked to the Purchase Order.
- Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the Framework Agreement.
- Where a relevant Approved List exists, at least one quote should be sought from the Suppliers included on it.
- It is the responsibility of the Officer to ensure that all Contracts within this threshold are, wherever practicable, entered into the council's contracts database.

### (ii) Procurement Process for Spend between £10,001 - £25,000

- Where the evidence based estimated value of a proposed Contract (including all extensions) does not exceed £25,000, the Officer must, wherever practicable, obtain at least three quotes. In cases where it is impracticable to seek at least three quotes the Officer must obtain approval from their Service Manager and record those reasons for not seeking three quotes.
- Officers must ensure they are conducting a like for like comparison and that quotes are evaluated on the same basis.
- Officers should search the market for at least three suitable Suppliers. If they offer best value, Officers should use Isle of Wight based Suppliers.
- The conditions of contract will be the council's standard terms and conditions which are linked to the Purchase Order.
- Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the Framework Agreement.

- Where a relevant Approved List exists, at least three quotes should be sought from the Suppliers included on it.
- It is the responsibility of the Officer to ensure that all Contracts within this threshold are wherever practicable entered into the Council's Contracts Database.

(iii) Procurement Process for Spend between Spend £25,001 - £100,000

- Where the evidence based estimated value of a proposed Contract (including all extensions) exceeds £25,001 but is less than £100,000, the Officer must notify the Procurement Team who will co-ordinate the Request for Quotation ("RFQ") process in conjunction with the Officer.
- The RFQ process must be run using the open procedure i.e. the use of a Pre-Qualification Questionnaire is prohibited.
- The RFQ process shall be run using the council's e-tendering system and additionally, a Contract Notice must be placed in Contracts Finder as a minimum.
- The evaluation criteria must be set out in the RFQ document including all weightings, sub criteria (if applicable) and scoring criteria. The evaluation criteria must be relevant and proportionate to the subject matter of the Contract.
- Contracts can be awarded on the basis of the lowest price or the most economically advantageous offer. The chosen award mechanism must be set out in the RFQ document.
- The RFQ document must contain the Specification of requirements which shall lay down the characteristics of the proposed Contract. Officers must ensure that the Specification is not drafted in such a way that it distorts competition. Whenever practical, the Specification should focus on successful outcomes, rather than being unnecessarily prescriptive, to encourage innovation from Suppliers. The Officer must also involve and seek input from relevant key stakeholders if required.
- The conditions of contract shall be the council's standard terms and conditions, however, timely consultation must take place with the council's Contracts Lawyer to determine whether any special conditions are required in addition. The conditions of contract must form part of the RFQ pack.
- Suppliers should be given a minimum return period of 14 days to submit quotes. Prior approval of the Procurement Team must be sought if the Officer wishes to shorten the return period.
- Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the

Framework Agreement. The Procurement Team shall co- ordinate any mini competition or direct award in conjunction with the Officer.

- Where a relevant Approved List exists, a minimum of three written quotes should be sought from the Suppliers included on it.
- In cases where it is impracticable to follow the RFQ process, the Officer may seek a waiver in accordance with Section 10 (Waiver).

(iv) Procurement Process for Spend between Spend £100,001 – Relevant EU Threshold

- Where the evidence based estimated value of a proposed Contract (including all extensions) exceeds £100,001 but is less than the relevant EU threshold, the Officer must notify the Procurement Team who will co-ordinate the Invitation to Tender (“ITT”) process in conjunction with the Officer.
- The ITT process must be run using the open procedure i.e. the use of a Pre-Qualification Questionnaire is prohibited.
- The ITT process shall be run using the Council's e-tendering system and additionally, a Contract Notice must be placed in Contracts Finder as a minimum and consideration should be made to placing a Contract Notice in a relevant industry publication.
- The evaluation criteria must be set out in the ITT document including all weightings, sub criteria (if applicable) and scoring criteria. The evaluation criteria must be relevant and proportionate to the subject matter of the Contract.
- Contracts can be awarded on the basis of the lowest price or the most economically advantageous offer. The chosen award mechanism must be set out in the ITT document.
- The ITT document must contain the Specification of requirements which shall lay down the characteristics of the proposed Contract. Officers must ensure that the Specification is not drafted in such a way that it distorts competition. Whenever practical, the Specification should focus on successful outcomes, rather than being unnecessarily prescriptive, to encourage innovation from Suppliers. The Officer must also involve and seek input from relevant key stakeholders if required.
- Timely consultation must take place with the council's Contracts Lawyer to determine the conditions of Contract to be used. The conditions of contract must form part of the ITT pack.
- Suppliers should be given a minimum return period of 21 days to submit tenders. Prior approval of the Procurement Team must be sought if the Officer wishes to shorten the return period.



- Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the Framework Agreement. The Procurement Team shall co-ordinate any mini competition or direct award in conjunction with the Officer.
- Where a relevant Approved List exists, a minimum of five written tenders should be sought from the Suppliers included on it.
- In cases where it is impracticable to follow the ITT process, the Officer may seek a waiver in accordance with Section 10 (Waiver).

(v) Procurement Process for Spend above Relevant EU Threshold

- Where the evidence based estimated value of a proposed Contract is in excess of the relevant EU Threshold, the Officer must notify the Procurement Team who will co-ordinate the procurement process in conjunction with the Officer in accordance with the procedures set out in the Public Contracts Regulations 2015.
- In most cases, the open or restricted procedure will be used, but in certain specialist cases, such as private finance initiative Contracts, the negotiated or competitive dialogue procedure shall apply. Advice on which procedure is appropriate to the specific case should be sought from the Procurement Team.

#### 4.4 Procedure on Receipt of Quotes and Tenders

- (i) All quotes and tenders invited in accordance with 4.3 (iii), (iv) and (v) must be returned via the council's e-tendering portal and will remain unopened and anonymous until the closing time and date for the receipt of responses.
- (ii) The only exception to 4.4 (i) is where Suppliers are having problems with the e-tendering portal and are unable to upload their return. The Procurement Team must have been made aware of the problem prior to the return deadline.
- (iii) Any pending, or late, quote or tender returns will be rejected by the e-tendering portal once the opening and verification process has been started.

#### 4.5 Evaluation

- (i) All quotes and tenders must be checked for arithmetic accuracy. If any errors are found they must be notified to the Supplier who shall be given the opportunity to confirm the correct price. Officers should reject any quote or tender where the error undermines the integrity of the RFQ or ITT process.
- (ii) Officers must ensure the quote or tender submission is compliant with the RFQ or ITT and, in particular, meets any specification, requirements and contract terms set out in or detailed in that document.

- (iii) All quotes and tenders shall be evaluated in accordance with the designated evaluation criteria set out in the RFQ or ITT document.
- (iv) For tenders invited in accordance with 4.3 (iv) and (v), Officers must appoint an Evaluation Panel which will be made up of council Officers and Stakeholders (where appropriate) who have sufficient knowledge of the Contract requirements. The Procurement Team will act as scrutiniser.

#### 4.6 Acceptance and Award of Quotes and Tenders

- (i) Prior to awarding a Contract, the Officer must ensure all approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals.
- (ii) Notification of the award decision and feedback for the unsuccessful Suppliers must be issued using the e-tendering portal.
- (iii) Where the Contract value is above £25,000, a contract award notice must be placed on Contracts Finder and where the value is above the relevant EU threshold, a contract award notice must also be placed in the Official Journal of the European Union.
- (iv) Where the value of a Contract is above the relevant EU threshold, the Contract shall be awarded in accordance with the Public Contracts Regulations 2015 and in particular the requirements relating to a "standstill" period prior to the Contract being entered into.
- (v) All Contracts made on behalf of the council must be in writing and executed in accordance with these Contract Standing Orders and the council's Constitution.
- (vi) Contracts must either be signed by an Officer of the council duly authorised for this purpose or, if valued at over £250,000 can only be made under the Common Seal of the Council attested by the Head of Legal Services or an Officer Authorised by the holder of that post.
- (vii) The signed Contract shall be held in the council's Contract Store.
- (viii) The Contract shall be registered on the council's Contracts Database.

4.7 Please see **Table 1** for a summary of the procurement thresholds and the associated processes.

### 5. Corporate contracts

5.1 The council has a number of corporate Contracts where prices and service levels have been negotiated using historic and projected volumes to achieve the best value for the council as a whole.

- 5.2 Where corporate Contracts exist they must be used. If a Service Manager wishes to opt out of such corporate Contracts, the Officer responsible for the corporate Contract in question must be consulted and the reasons for the opt- out documented and approved.

## **6. Contract variations**

- 6.1 A Contract variation is any change to a Contract's terms and conditions (or any of its schedules or annexations) prior to the expiry of the Contract and it may be either a one off item of work or service or a change for the remainder of the Contract.
- 6.2 Contracts must not be varied if a variation is not expressly permitted by the Contract.
- 6.3 If a budget has been approved, Officers duly authorised for this purpose can agree to variations up to 10 per cent of the total Contract value or £150,000, whichever is lowest. For all Contracts the value reported must represent the potential total additional cost across the term of the variation.
- 6.4 If the variation exceeds these thresholds, or there have been cumulative variations to this value, or there are significant departmental implications, or changes to service levels, arising from the variation (even if the variation has no financial value) approval must be sought from the Board using the prescribed form.
- 6.5 All Contract variations should be kept with the original Contract in the Contract Store and be reflected on the Contracts Database.
- 6.6 Officers must adhere to the Public Contracts Regulations 2015 and consider whether a variation is of such magnitude that a new Contract is required.

## **7. Social value**

- 7.1 The Public Services (Social Value) Act 2012 places an obligation on the council to consider the economic, social and environmental well-being of the local area at the pre procurement stage of the procurement process for Service Contracts over the EU threshold. The Council will also informally apply this to all Contracts with a whole life value of over £25,000, where it is deemed appropriate.
- 7.2 Where appropriate, Social Value will be evaluated as part of the tender award criteria.
- 7.3 These requirements must not override the fundamental competition provisions that prohibit any discriminatory measures in favour of local suppliers.

## **8. Sustainability**

- 8.1 Sustainable procurement offers the council the opportunity to encourage and work collaboratively with Suppliers to adopt practices that minimise environmental and social impacts. Officers must consider minimising the impact of the Contract on the environment whilst also acquiring goods, works and services at a competitive rate, and are required to consider ways of procuring more resource and energy efficient alternatives.

8.2 Where appropriate, sustainability will be evaluated as part of the tender award criteria.

## 9. **Equality and diversity**

9.1 To ensure that the council procures goods, works and services in a way which promotes equality, Officers must, where appropriate;

- (i) seek information on a Supplier's equality policies and practices and, where appropriate, evaluate this to help short list suitable Suppliers;
- (ii) include equality clauses as standard in contracts to ensure Suppliers meet relevant statutory duties;
- (iii) encourage Small and Medium Enterprises, minority and voluntary groups to tender for suitable Contracts and create evaluation criteria that do not disadvantage these groups;
- (iv) have due regard to The Equality Act 2010.

## 10. **Waivers**

10.1 Waivers of these CSOs may be sought in unforeseen or exceptional circumstances. Waivers must not be sought for reasons of poor planning nor as a means to by-pass these CSOs and cannot be given if they would contravene the Public Contracts Regulations 2015 or any other applicable legislation.

10.2 Any of the requirements of these CSOs may be waived in an individual case, by the person(s) authorised as follows:

- (i) where the estimated value of the Contract is less than £100,000, the Procurement Team Manager or any member of the Procurement Team as delegated by the Manager, or at the discretion of the Procurement Team, the Board;
- (ii) where the estimated value of the Contract is £100,000 or greater, the Board.

10.3 A request for the issue of a waiver must be made in writing, using the prescribed form, to the person authorised in 10.2. The decision in response to the request must also be in writing. No action shall be taken to enter into the Contract until such request has been submitted and the decision made.

10.4 Waivers may be utilised where it can be demonstrated that the ability to act quickly to engage a single Supplier would make economic sense and fit with service requirements, in circumstances where there is no more effective way to secure the capacity.

10.5 Officers must consult with the council's Contracts Lawyer to determine the conditions of Contract to be used.

10.6 Where a Contract has been awarded following the approval of a Waiver, the Officer shall register the Contract on the council's Contracts Database.

10.7 No waiver is granted retrospectively, unless in exceptional circumstances which shall be at the discretion of the Board.

**11. Collaborative working**

11.1 In order to secure best value, the council may enter into collaborative procurement arrangements with another local authority, government department, statutory undertaker or central purchasing body.

11.2 Any Contracts entered into through collaboration with other local authorities or public bodies where a competitive process has been followed that complies with the equivalent of the procurement rules of the leading organisation (but does not necessarily comply with these CSOs) will be deemed to comply with these CSOs and no exemption will be required.

**TABLE 1**

Estimated <b>Total</b> Contract Value (including all extension options)	Rules/Regulations to follow	Competition Requirements	Advertising Requirements	Notes
<b>Below £10,000</b>	IWC Contract Standing Orders	No formal competition required, although quotes can be sought in order to demonstrate best value	No advert required	<ul style="list-style-type: none"> <li>• Seek one written quote</li> <li>• Consider the use of a procurement card</li> <li>• Conditions of contract will be standard IWC T's and C's linked from the Purchase Order</li> <li>• Service Department to carry out and manage the process with any advice being sought from the Procurement Team if/when required</li> <li>• Officers must be able to demonstrate that they have achieved value for money</li> </ul>
<b>£10,001 - £25,000</b>	IWC Contract Standing Orders	Seek a minimum of 3 written quotes identified following market research or use a suitable/compliant Framework Agreement as per competition rules of Framework or seek a minimum of 3 written quotes from an Approved Supplier List	No advert required	<ul style="list-style-type: none"> <li>• Conditions of contract will be standard IWC T's and C's linked from the Purchase Order</li> <li>• Service Department to carry out and manage the process with any advice being sought from the Procurement Team if/when required</li> <li>• If Officers are not in a position to seek 3 quotes, the responsibility of 'waiving' this requirement will sit with the Service Manager. Any decision to waive must be documented</li> <li>• Officers must be able to demonstrate that they have achieved value for money</li> <li>• The setting up of a Framework Agreement or Approved List will be done in conjunction with the Procurement Team</li> </ul>
<b>£25,001 - £100,000</b>	IWC Contract Standing Orders	Formal Request for Quotation process using the open procedure, or use a suitable approved/compliant Framework Agreement or seek a minimum of 3 written quotes from an Approved Supplier List	Advertise on council, South East Business Portal and Contracts Finder websites	<ul style="list-style-type: none"> <li>• Conditions of contract will be standard IWC T's and C's with any special terms included where required</li> <li>• The procurement process will be co-ordinated by the Procurement Team through the council's e-tendering system</li> </ul>
<b>£100,001</b> to the relevant EU Threshold	IWC Contract Standing Orders	IWC Invitation to Tender or use of a suitable approved/compliant framework or seek a minimum of 5 written quotes from an Approved Supplier List	Advertise on council, South East Business Portal and Contracts Finder websites and consider one industry publication	<ul style="list-style-type: none"> <li>• Conditions of contract will be the standard IWC T's and C's, or bespoke, at the discretion of the Contracts Lawyer</li> <li>• The procurement process will be co-ordinated by the Procurement Team through the council's e-tendering system</li> </ul>

Estimated <b>Total</b> Contract Value (including all extension options)	Rules/Regulations to follow	Competition Requirements	Advertising Requirements	Notes
<p><b>£4,104,394</b> and above for works contracts</p> <p><b>£589,148</b> and above for "light touch" contracts</p> <p><b>£164,176</b> and above for goods and services contracts</p> <p>These thresholds apply between 1st January 2016 to 31st December 2017</p>	Public Contracts Regulations 2015	Invitation to tender process in accordance with requirements of Public Contracts Regulations 2015	<p>Advertise on Council, South East Business Portal and Contracts Finder websites, the Official Journal of the European Union (OJEU) and consider two industry publications</p> <ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• The conditions of contract will be the standard IWC T's and C's, or bespoke, at the discretion of the Contracts Lawyer</li> <li>• The procurement process will be co-ordinated by the Procurement Team through the council's e-tendering system</li> </ul>

# OFFICER EMPLOYMENT RULES

These procedure rules are standing orders which include legislative requirements.

In these rules references to chief officers means the chief executive and chief officers.

## Role of Head of Paid Service

1. Subject to paragraphs 3 and 7, 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 Local Government and Housing Act 1989 (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him (and not by members of the council, except in accordance with Rule 8).

The head of paid service has nominated all chief officers as officers who can carry out on his behalf the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff, under rule 1.

2. Rule 1 shall not apply to the appointment or dismissal of, or disciplinary action against–
  - 2.1 the officer designated as the head of the authority's paid service;
  - 2.2 a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - 2.3 the monitoring officer within the meaning of s5 of the 1989 act;
  - 2.4 a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - 2.5 a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - 2.6 a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

Or the consideration of grievance and disciplinary appeals relating to chief officer posts and employee appeals in cases of dismissals that arise out of disciplinary or capability proceedings.

## 3. Recruitment and Appointment of Officers

### 3.1 Declarations

- (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, or officer of the council or of the partner of such persons.



- (ii) No candidate so related to a councillor or an officer, or of a partner of such persons, shall be appointed without the authority of the relevant chief officer of the council.

### 3.2 Seeking Support for Appointment

- (i) Subject to paragraph (iii) below, the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph (or words to similar effect) will be contained in any recruitment information.
- (ii) Subject to paragraph (iii) below, no councillor will seek to support any person for appointment with the council.
- (iii) Nothing in this rule will prevent a councillor from giving a written reference for a candidate for submission in connection with an application for appointment.

## 4. Recruitment of head of paid service and chief officers

### 4.1 Where the council proposes to appoint a chief officer, and it is not proposed that the appointment will be made exclusively from among their existing officers, the council will:

- (i) Draw up a statement specifying:
  - the duties of the officer concerned; and
  - any qualifications or qualities to be sought in the person appointed
- (ii) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (iii) Make arrangements for a copy of the statement mentioned in paragraph 4.1 (i) to be sent to any person on request

### 4.2 Where a post has been advertised as provided in rule 4.1(ii), the authority shall -

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

### 4.3 Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with rule 4.1 (ii).

### 4.4 Every appointment of a chief officer shall be made by, or recommended to the council, by the Employment Committee (see Article 9 above).

5. Appointment and dismissal of head of paid service, statutory and other chief officers and deputy chief officers
- 5.1 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the functions of appointment or dismissal of:
- (i) the officer designated as the head of the authority's paid service;
  - (ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;

The following rules will apply.

- 5.2 In this rule, "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.
- 5.3 An offer of an appointment must not be made by the appointor until -
- (i) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (ii) the proper officer has notified every member of the Executive of the authority of-
    - the name of the person to whom the appointor wishes to make the offer;
    - any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - the period within which any objection to the making of the offer is to be made on behalf of the Executive to the proper officer; and
  - (iii) either
    - The leader of the council within the period specified in the notice under sub-paragraph (ii), notified the appointor that neither s/he nor any other member of the Executive has any objection to the making of the offer;
    - the proper officer has notified the appointor that no objection was received by him within that period from the Executive; or
    - the appointor is satisfied that any objection received from the Executive within that period is not material or is not well-founded.

- (iv) For the appointment of the head of paid service – this can only be formally concluded by a proper resolution of the Full Council. For all other appointments once the process in (i) to (iii) has been concluded then the appointer can confirm the offer of appointment.

5.4 In this rule, “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.

5.5 Notice of the dismissal of an officer referred to must not be given by the dismissor until -

- (i) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (ii) the proper officer has notified every member of the Executive of the authority of-
- the name of the person who the dismissor wishes to dismiss;
  - any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - the period within which any objection to the dismissal is to be made on behalf of the Executive to the proper officer; and
- (iii) either -
- the leader of the council has, within the period specified in the notice under sub-paragraph 5.3 (ii), notified the dismissor that neither s/he nor any other member of the Executive has any objection to the dismissal;
  - the head of paid service has notified the dismissor that no objection was received by him within that period from the elected mayor; or
  - the dismissor is satisfied that any objection received on behalf of the Executive within that period is not material or is not well- founded.

6. Additional rule in relation to appointment and dismissal of head of paid service

6.1 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 the authority's paid service, monitoring officer or s151 officer, the Full Council 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.

7. Dismissal of head of paid service, monitoring officer and chief finance officer

7.1 In the following paragraphs -

- (i) *“the 2011 Act”* means the Localism Act 2011(b);
- (ii) *“chief finance officer”, “disciplinary action”, “head of the authority's paid service”* and *“monitoring officer”* have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (iii) *“independent person”* means a person appointed under section 28(7) of the 2011 Act;
- (iv) *“local government elector”* means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
- (v) *“the Panel”* means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (vi) *“relevant meeting”* means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (vii) *“relevant officer”* means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.

7.2 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

7.3 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

7.4 In paragraph 7.3 *“relevant independent person”* means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

7.5 Subject to paragraph 7.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 7.3 in accordance with the following priority order -

- (i) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (ii) any other relevant independent person who has been appointed by the authority;
- (iii) a relevant independent person who has been appointed by another authority or authorities.

- 7.6 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 7.5 but may do so.
- 7.7 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 7.8 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular -
- (i) any advice, views or recommendations of the Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.
- 7.9 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act."
8. Additional rules in relation to appointment of political assistants
- 8.1 no appointment of a political assistant to a political group shall be made until such posts have been allocated to all political groups which qualify,
- 8.2 no political assistant will be allocated to a political group which does not qualify for one,
- 8.3 nor shall more than one political assistant be allocated to a political group,
- 8.4 the prohibition on the involvement of members of the council in the appointment of officers does not apply to the appointment of political assistants.
9. Appeal Committees
- 9.1 Nothing in rule 7 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by -
- (i) another person against any decision relating to the appointment of that other person as a chief officer of the authority; or
  - (ii) a chief officer of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that chief officer.
10. Definitions

In these Rules:

"the 1989 Act" means the Local Government and Housing Act;

"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;

"elected mayor" and "executive" have the same meaning as in Part II of the 2000 Act;

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this part

"Chief Officer"

For the purposes of these rules chief officer includes the chief executive, and any employee contractually entitled to JNC Terms and Conditions for Chief Officers.

# THE CODE OF CONDUCT

## 1. Introduction and interpretation

1.1 This code applies to you as a member of the Isle of Wight Council.

1.2 You should read this code together with the seven general principles prescribed by the Localism Act 2011 as follows:

The principles of public life apply to anyone who works as a public office -holder includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

**Selflessness** - Holders of public office should act solely in terms of the public interest.

**Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty** - Holders of public office should be truthful.

**Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

1.3 It is your responsibility to comply with the provisions of this code.

1.4 In this code -

"meeting" means any meeting of -

(i) the Isle of Wight Council;

- (ii) the Executive of the Isle of Wight Council;
- (iii) any of the Isle of Wight Council's or its Executive's committees, sub- committees, joint committees, joint sub-committees, panels or area committees;

"member" includes a co-opted member and an appointed member. In relation to a parish or town council, references to an authority's monitoring officer shall be read as references to the monitoring officer of the Isle of Wight Council under section 55(12) of the Local Government Act 2000.

## 2. **Scope**

2.1 Subject to sub-paragraphs b. to e., you must comply with this code whenever you -

- (i) conduct the business of the Isle of Wight Council (which, in this code, includes the business of the office to which you are elected or appointed); or
- (ii) act, claim to act or give the impression you are acting as a representative of the Isle of Wight Council,

and references to your official capacity are construed accordingly.

2.2 This code does not have effect in relation to your conduct other than where it is in your official capacity.

2.3 Where you act as a representative of the Isle of Wight Council

- (i) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (ii) on any other body, you must, when acting for that other body, comply with the Isle of Wight Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## 3. **General obligations**

3.1 You must treat others with respect.

3.2 You must not -

- (i) do anything which may cause the Isle of Wight Council to breach any of the equality enactments (in particular the Equality Act 2010);
- (ii) bully any person;
- (iii) intimidate or attempt to intimidate any person who is or is likely to be -
  - complainant,
  - a witness, or
  - involved in the administration of any investigation or proceedings,



in relation to an allegation that a member (including yourself) has failed to comply with their council's code of conduct; or

- (iv) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Isle of Wight Council.

4. You must not -

4.1 disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is -
  - reasonable and in the public interest; and
  - made in good faith and in compliance with the reasonable requirements of the authority; or

4.2 prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Isle of Wight Council into disrepute.

6. You -

6.1 must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

6.2 must, when using or authorising the use by others of the resources of the Isle of Wight Council

- (i) act in accordance with the Isle of Wight Council reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

6.3 must have regard to any applicable local authority code of publicity made under the Local Government Act 1986.

7. When reaching decisions on any matter you must have regard to any relevant advice provided to you by -
  - 7.1 The Isle of Wight Council's chief finance officer; or
  - 7.2 the Isle of Wight Council's monitoring officer,  
where that officer is acting pursuant to his or her statutory duties.
8. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Isle of Wight Council.
9. **Register of Interests**

You must complete your register of interest within 28 days of being elected and then update your register of interests within 28 days of any event that requires a change.
10. **Declaration of an Interest**
  - 10.1 If you have a matter due to be considered by the Isle of Wight Council that affects a matter disclosed in your register of interest or your register of disclosable pecuniary interests then you must declare that interest before the matter is being discussed or when that interest becomes apparent.
  - 10.2 If the matter relates to an interest in your register of pecuniary interests then you must take no part in its consideration and if it is being considered at a meeting of the Isle of Wight Council you must leave the room for that item.
  - 10.3 Should you wish to participate as a member of the public to express your views where public speaking is allowed under the council's normal procedures, then you will need to seek a dispensation to do so. Dispensations are considered by the monitoring officer following the submission of a written request. Dispensations may take up to 2 weeks to be granted.
11. **Personal Interests**
  - 11.1 A Member has a "personal interest" in an item of business where it relates to or is likely to affect any of the following bodies of which they are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
  - 11.2 A Member also has a "personal interest" in an item of business where a decision in relation to it might reasonably be regarded as affecting the well being or financial position of the Member, a member of the Member's family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.

- 11.3 A Member shall disclose a “personal interest” at a meeting of the authority, committee or sub-committee, where the Member considers that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.
- 11.4 Disclosure of a personal interest will only affect the ability of the Member to participate in discussion or vote on the relevant item if it is also a disclosable pecuniary interest; OR if the personal interest is so close (ie the matter directly affects a member of your family). In either case you should exclude yourself from the meeting.

## **12. Register of Gifts and Hospitality**

You must register with the monitoring officer any gift or hospitality exceeding a value of £50 that you have been offered (whether accepted or not) as part of your role as a member of the Isle of Wight Council.

# **GIFTS AND HOSPITALITY - GUIDANCE NOTE TO STAFF AND MEMBERS**

## **1. Introduction**

- 1.1 The public are entitled to demand of local government officers and members, conduct of a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives.
- 1.2 It is a serious criminal offence for officers or members to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in an official capacity. If an allegation is made in such circumstances, the burden of proof will fall upon the officer or member to show that they have not in any way been influenced by improper motives. For this reason it is most important for the council to set clear guidance for all employees and members.
- 1.3 This is intended to assist staff and members in making a decision as to whether a gift or hospitality can be accepted. Staff will receive a copy of these rules and are being required to acknowledge receipt of them. Staff are reminded that breaches of the code may result in disciplinary action and in serious cases, could result in dismissal. Members are reminded that a breach of this guidance may result in a complaint against them to the monitoring officer.

## **2. Gifts**

- 2.1 In general, gifts should be refused. A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the council or one who has an interest in a council decision.
- 2.2 In normal circumstances, only minor gifts of token value, such as promotional material, may be accepted. In some very special circumstances, (where, for example, visiting dignitaries are involved), refusal may cause unintentional offence and this should be taken into consideration.
- 2.3 More substantial gifts must not be accepted under any circumstances. These may include, for example, cash, vouchers, bottles or cases of wine or hampers. In such circumstances, the gift should be returned in a courteous manner accompanied if appropriate by the following or similar statement:

"Thank you for your kind offer of ..... Unfortunately, the council has a clearly defined policy on receiving gifts or hospitality and I am unable to accept it. I therefore return the gift."
- 2.4 For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.
- 2.5 If in doubt, staff should consult their chief officer before accepting any gift. Members should consult the council's monitoring officer.

### **3. Legacies**

3.1 Staff may not accept legacies from clients. If it becomes known to any employee that they are likely to benefit from a legacy made by a former or existing client, they must inform their chief officer as soon as possible. The chief officer will then consider what action to take and if necessary consult the head of paid service and monitoring officer. If the beneficiary is also a relative of the former client, it is advisable that they notify their chief officer as soon as they are aware of the legacy in order to avoid any misinterpretation.

### **3.2 Hospitality**

3.3 The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the council or where purchasing decisions may be potentially compromised.

3.4 Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the council's wider interest in the community. Staff may, for example, need to attend functions in support of local members. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.

3.5 The following criteria should be applied when deciding whether or not to accept offers of hospitality:

- (i) whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to an Island event which meets the criteria below may be appropriate.
- (ii) whether the Council's interest is better served by attendance.
- (iii) whether the scale of the hospitality is appropriate to the circumstance.
- (iv) whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
- (v) whether the hospitality is offered by a person or organisation who is not tendering or about to tender for council business.
- (vi) whether members are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
- (vii) whether it is more appropriate to bear the expense oneself.

3.6 Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant chief officer. In case of doubt, staff should consult their chief officer for guidance. In the case of members, an appropriate declaration

should be completed in advance of the hospitality being accepted. In the event of doubt, the council's monitoring officer should be consulted for guidance.

- 3.7 If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the council with, if appropriate, the following or similar statement:

"Thank you for your kind offer of ..... Unfortunately, the council has a clearly defined policy on accepting gifts and hospitality and I am therefore unable to accept."

- 3.8 Below are some examples of acceptable and unacceptable hospitality:

#### 4. **Acceptable**

- 4.1 modest working lunches provided that their purpose is to continue the work underway in the meeting.
- 4.2 attendance in an official capacity at functions to which invitations have been sent to other local authorities.

#### 5. **Unacceptable**

- 5.1 holidays or weekends away
- 5.2 the use of a company flat or suite
- 5.3 lunch with a developer who is applying for planning permission
- 5.4 tickets to a theatre, concerts or sporting events which are offered in order to influence your decisions and which you would not attend in an official capacity

#### 6. **Recording of Gifts and Hospitality**

- 6.1 Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each services register maintained for such purposes. For members, the register is maintained by democratic services, members only need to record any gifts or hospitality that have a value in excess of £50, or those that in aggregate, exceed £50 in any consecutive twelve months. The council has a prescribed format for the register (as set out in appendix 1 and 2 to this guidance) which includes the following detail:

- (i) employee's/member's name
- (ii) job title (if staff)
- (iii) name of company/organisation making the offer
- (iv) relationship with council
- (v) nature of gift/hospitality offered
- (vi) date offered
- (vii) whether declined or accepted.

- 6.2 Registers of gifts and hospitality will be reviewed at least monthly by the relevant chief officer. The head of paid service will review the register of chief officers. The monitoring officer will review the register of members' registrations and the register of the head of paid service. All such reviews will be evidenced by signature and date.

## **7. Legislation in relation to Gifts and Hospitality**

- 7.1 An outline of the legislation applicable to the acceptance of gifts and hospitality is given below.

(i) Bribery Act 2010

The Bribery Act 2010 reformed criminal law, replacing the Prevention of Corruption Acts 1889-1916 by providing comprehensive scheme of bribery offences. The act covers a wide range of both direct and indirect bribery offences, and includes offences committed by individuals and corporate bodies. Penalties for non-compliance are serious, with a maximum penalty for the most serious cases being ten years imprisonment. The act created two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive, or acceptance of an advantage

(ii) Local Government Act 1972

It is a criminal offence under Sub-section 2 of Section 117 for council employees to accept any fee or reward other than their remuneration. An offender is liable on conviction to pay a fine.

## GIFTS AND HOSPITALITY REGISTER (OFFICER)

1. Name:
2. Job title:
3. Name of company (or individual) offering hospitality:
4. Relationship with council:
5. Type of hospitality/gift offered/received:
6. Date hospitality/gift offered/received:
7. Declined: YES / NO
8. Where hospitality took place:
9. Is there a cost to the authority? YES / NO  
If yes, how much? £.....

Signed (Officer): .....

Date: .....

Chief officer's signature: .....

Date: .....



# GIFTS AND HOSPITALITY REGISTER (COUNCILLOR)

Only to be used for gifts and hospitality in excess of £50

1. Councillor's Name:

2. Name of company (or individual) offering hospitality:

3. Relationship with council:

4. Type of hospitality/gift offered/received:

5. Date hospitality/gift offered/received:

6. Declined: YES / NO

7. Where hospitality took place:

Signed (Councillor): .....

Date: .....

Monitoring Officer (or representative) signature: .....

Date: .....

# *THE COUNCIL'S DECISION MAKING PROCESS*

## **1. Introduction and purpose of the document**

- 1.1 This document sets out the council's decision making process and in the event of uncertainty on the part of any councillor or officer, reference should be made to the council's monitoring officer who has responsibility for advising on the council's constitution.

## **2. The decision making process**

- 2.1 Decisions are made by the council in many places and by a number of people.
- 2.2 The vast majority of the decisions made by the council are undertaken under delegated powers by officers in accordance with the council's scheme of delegations. This scheme is contained within the constitution.
- 2.3 Many other decisions are taken in committees of the council, by the Executive or by the Full Council itself.
- 2.4 This section sets out the decision making process for those made by the Full Council, Executive, and any committees (called "member level decisions") and those made by officers ("officer level decisions").

## **3. Principles of decision making**

- 3.1 In making decisions, the council, its members and its officers need to be able to demonstrate by written record and appropriate audit trail:
- (i) that relevant matters are taken into account;
  - (ii) that nothing irrelevant is considered;
  - (iii) that procedural rules, contract and financial procedure rules have been complied with;
  - (iv) that proper advice is taken and considered before the decision was reached;
  - (v) that any interests are properly declared;
  - (vi) that the decision is properly recorded and published.
  - (vii) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (viii) due consultation and the taking of professional advice from officers;
  - (ix) respect for human rights;
  - (x) a presumption in favour of openness;

- (xi) clarity of aims and desired outcomes;
- (xii) due consideration of all available options; and
- (xiii) that the protocols and procedures contained in the protocol on decision making and the consultation protocol between parish/town councils and the Isle of Wight Council appended to this constitution have been followed.

#### 4. **Member level decisions**

(Those marked \* do not apply to decisions by the regulatory committees or their sub committees when they are dealing with any matter relating to applications or quasi-judicial determinations (“regulatory decisions”).

- 4.1 \*All decisions by the Full Council, Executive and key decisions made by officers must have been listed in the forward plan. This is produced monthly and covers the decisions proposed to be made during the next four month period. Items do not have to be included for the full four month period as it will rarely be the case that all the decisions to be taken are known four months in advance. In cases of genuine urgency see the urgency provisions below.
- 4.2 A report in the correct format has to be prepared – this ensures that all the required considerations have been taken into account – examples of the format are available on the council’s intranet.
- 4.3 \*Before the report is published it must be (other than in cases of true urgency) considered by the council’s internal process (details of this are available from democratic services) – this ensures that all strategic, corporate, legal, financial, risk and other matters have been fully taken into account.
- 4.4 The report must be published for 5 clear working days prior to the decision being taken.
- 4.5 The decisions of Full Council and regulatory decisions are effective immediately and can be implemented by the relevant chief officers straightaway unless the law otherwise prescribes.
- 4.6 Scrutiny Committee and any executive committee recommendations are immediately referred to the appropriate decision maker.
- 4.7 Executive decisions must be published (within 2 working days of the decision) for 5 working days for the “call in” period (see below) and can only be implemented at the end of that process provided there has been no call in – in which case the call in arrangements apply. In cases of urgency there are provisions to disapply call in (see below).

## **5. Urgency**

- 5.1 Sometimes decisions need to be made urgently and outside of the usual process (for example reducing the pre decision notification time or disapplying call in). Urgency in these cases is defined as cases where the council will be significantly disadvantaged by a delay and where these provisions are used clear explanations must be made in the written reports.

## **6. The forward plan**

- 6.1 There is a statutory requirement to publish 28 working days in advance the intention to take any key decision. There is also a requirement to publish at least 28 working days in advance if any meeting, or part thereof, is likely to consider any matter in private. Both these requirements are achieved through the forward plan which is updated and published as and when necessary.
- 6.2 A key decision is an Executive decision that is likely -
- (i) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- 6.3 However the scope of the forward plan has been extended to include all those items about which it is known that the Full Council or Executive is to make a decision within the following 4 months. The forward plan will be updated on at least a monthly basis. Not all decisions will be known 4 months in advance and so advance notice of decisions will be included as soon as they become known.
- 6.4 The forward plan enables elected members, members of the public and the Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined.
- 6.5 Items requiring a decision that have not appeared on the forward plan.
- 6.6 If an item has not appeared on the forward plan and a decision needs to be taken before the next edition of the forward plan is published then the relevant chief officer (or head of service) must consult with the chairman of the Scrutiny Committee - or in his or her absence, the vice chairman, or if both are absent, the chairman of the council. The views of the chairman of Scrutiny Committee must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the forward plan and why it missed the last edition of the forward plan.
- 6.7 If the decision is a key decision and less than 5 working days notice of the decision has to be given then the agreement of the chairman of Scrutiny Committee (or in their absence

the chairman of the council or if both are absent the vice chairman of the council) must be obtained before the decision can be made.

6.8 In either case the chairman of the Scrutiny Committee must report on such consultations/agreements at the next meeting of the Scrutiny Committee.

## **7. The call-in procedure**

### **7.1 What may be called in**

(i) Any decision of the Executive can be the subject of a call in apart from :-

- a recommendation to Full Council for adoption or approval; or
- if in exceptional cases it is of an urgent nature then call-in arrangements may be abridged or disapplied, by a decision of the Executive, if to do so is necessary to safeguard the interests of the council or of the public. In any such case reasons for the disapplication will be discussed by the relevant chief officer (or head of service) with the chairman of the relevant scrutiny committee and the reasons for disapplying the call in will be stated at the top of the report and this will be further explained – with the views of the chairman of the relevant scrutiny committee – in the body of the report. In such cases whilst the actual decision cannot be called in the relevant scrutiny committee may ask to consider the circumstances and provide recommendations if they so wish; or
- If the item has already been the subject of an agenda item on the Scrutiny Committee arising from the forward plan and observations were made to Executive and it is demonstrated that these were taken into account when making the decision; or
- The appointment of executive members;

(ii) A call in can only be requested if such concerns were raised following the publication of the agenda item, or at the meeting of the Executive, and were not taken into account.

### **7.2 Who may request a call in**

- (i) At least two voting members of the scrutiny committees and one other member of the council must sign a call in request. One of those calling in the decision must be identified as the lead member for the call in. Such voting members shall also include the parent governor co-opted members and the diocesan co-opted members.
- (ii) A member of the scrutiny committees must not sign a request for a call in if the matter is only of specific reference to their own electoral ward.

- (iii) If a member cannot obtain the necessary number for a call in but is still concerned about the decision that member is entitled, under article 5 of the constitution, to give notice to the proper officer requesting its inclusion on the next agenda of the relevant scrutiny committee. The proper officer will consult with the chairman. This will not however prevent implementation of the decision.
- (iv) Any member of the council, not on any of the scrutiny committees, may request that members of the committee consider instigating the call in process provided that that member has followed the process outlined in 1(b) above.
- (v) There should be no party whip applied to the call in process.

### 7.3 Submission of a call in notice

- (i) The notice requesting a call in shall be sent (either in paper or by electronic means) to the proper officer, who shall notify the relevant executive member, chief officer, chairman of the relevant scrutiny committee, chief financial officer and monitoring officer.
- (ii) The proper officer may reject the call in notice, after consultation with the chairman of the relevant scrutiny committee if insufficient detail has been given about the reason for call in and desired outcomes.
- (iii) On receipt of a call in notice the proper officer will stop implementation of the decision and consult with all relevant parties on the calling of a meeting of the relevant scrutiny committee to consider the matter.

### 7.4 Withdrawal of Call in Notice

- (i) A call in notice that has already been submitted to the proper officer may be withdrawn before the agenda for the meeting of the relevant scrutiny committee called to consider the matter is despatched. Such a withdrawal must be signed by all the members signing the original call in notice and also state the reasons for this.
- (ii) The proper officer shall prepare a report on the circumstances of the withdrawal for inclusion on the agenda for the next scheduled meeting of the relevant scrutiny committee. The report shall include details of any implications arising from the delay caused.

### 7.5 Meeting of the relevant scrutiny committee to consider the call-in

- (i) When the relevant scrutiny committee meets to consider the call in item at least half of the members signing the call in must be in attendance and this must include the nominated lead member.
- (ii) Consideration of the call in by the relevant scrutiny committee shall either be at a special meeting specifically for the item if the decision has to be implemented within a set timeframe, and within a period of 10 working days from the date that

the call in was received by the proper officer, or if deemed appropriate by the chairman of the relevant scrutiny committee in consultation with all relevant executive member and chief officers, at the next ordinary meeting of the committee.

- (iii) Discussion of any call in decision shall precede all other substantive items on the agenda.

#### 7.6 Process for dealing with a call-in at a meeting

The process for dealing with a call in at a meeting of the relevant scrutiny committee will be as outlined in guidance notes which will be reviewed on an annual basis by the committee and proper officer in the light of experience.

#### 7.7 Action that can be taken by the committee in relation to a call-in

Following consideration of submissions in relation to the call in the relevant Scrutiny Committee may take the following action :-

- (i) Accept the decision which has been made by the Executive. In this case the decision takes effect immediately;
- (ii) Accept the decision which has been made by the Executive but make appropriate recommendations associated with that decision. In this case the decision takes effect immediately.
- (iii) Accept the decision made by the Executive but add an item to the committee's workplan to review the effect of the decision at a later date;
- (iv) Refer the decision back to the Executive with recommendations. The relevant scrutiny committee must set out in writing the nature of its concerns that the Executive must take into account before making a final decision. If the concerns and recommendations are not accepted the Executive must state the reasons. If the Executive implements the decision as originally intended then the committee can consider adding an item to its workplan to review the effect of the decision at a later date.
- (v) If advice is received from the monitoring officer that the decision is unlawful, or outside the policy framework; or from the chief financial officer that the decision is outside the budget, the decision cannot be implemented and must be referred back to the Executive with recommendations or to Full Council if the policy framework or budget needs amending.

If, after debating the call in, no motion is formally proposed, seconded and agreed by the relevant scrutiny committee then the minute shall record this and the decision of the Executive can be implemented.

## 7.8 Review of the call-in process

The operation of the provisions relating to call in shall be monitored annually by the proper officer in conjunction with the scrutiny committees and a report submitted to Full Council with proposals for amendments if necessary.

## 8. **Officer Decisions**

8.1 These are not subject to the formal process as above, nor to the call-in process. All officer decisions can be implemented immediately and generally fall into two distinct types:

### 9. **Decisions taken by an officer in consultation with the relevant executive member**

9.1 There are a number of items specifically contained within the council's scheme of delegations which provide for the relevant officer to make a decision in consultation with the relevant executive member. The relevant officer in consultation with the executive member must consider whether these decisions should be taken following consultation also with the chairman of the relevant scrutiny committee or local member(s).

9.2 Once the executive member (and any other members as deemed necessary) has been consulted the officer's formal decision must be recorded and counter signed by the executive member (this can be via an exchange of emails) thus recording that such consultation has taken place.

### 10. **Decisions taken by an officer or by those authorised by the officer**

10.1 This category includes a wide range of decisions made on a day to day basis by chief officers, heads of service or by staff authorised by them to take such decisions. These decisions fall within the scheme of delegations to the officers and concern the operational management of their areas of responsibility.

10.2 Such decisions will be within approved budget and policy. The officer will use their discretion in briefing the relevant elected member(s) on decisions taken in this category.



# **PROTOCOL FOR COUNCILLORS ON RIGHTS TO INFORMATION**

## **1. General**

- 1.1 All requests from councillors for documentation must be submitted to the appropriate chief officer.
- 1.2 Such a request must :-
  - (i) Be specific as possible about the documents that they wish to see;
  - (ii) State the reason for wanting the information and the purpose that it will be used.

The chief officer is entitled to ask the councillor to make the request in writing if they are in any doubt about what is required and why.

- 1.3 If the chief officer, after seeking appropriate legal and financial advice where necessary, considers that the information can be supplied this will be undertaken as soon as possible. The timescale will also take into account officers workloads.
- 1.4 If the chief officer considers that the costs of supplying the information is too great or time consuming then alternative arrangements may be suggested to the member so that the request can be met by some other means.
- 1.5 In certain circumstances a member may be invited to inspect a document or file and this may be under supervision of a senior officer.
- 1.6 A member's right to inspect documents in the council's possession is governed by statute, case law, the council's constitution and the code of conduct.

## **2. Committee Papers - Local Government Act 1972 Section 100F**

- 2.1 A member can inspect any document in the possession or control of the council which contains material relating to any business to be transacted at a meeting of the Full Council, Executive, Committee or Sub Committee subject to the following exceptions contained in Schedule 12A of the Act which lists 7 categories of "exempt" information which is not available to the public.
- 2.2 This will be as detailed within the access to information rules within the council's constitution.
- 2.3 A document must be in a finalised and substantive format.

### **3. Case Law**

3.1 The following tests may be used to establish if a member has a “need to know” :-

- (i) If the member is on that committee then there is a right to inspect documents relating the business of that committee;
- (ii) If the member is not on that committee then they must demonstrate that they must have sight of the document to enable them to perform their duties as an elected member.
- (iii) If the member’s motive is deemed, by the appropriate chief officer, to be improper then access to the document will be denied.
- (iv) If no specific reason has been given other than of a general interest.

### **4. Freedom of Information**

4.1 A member has rights as a member of the public under the Freedom of Information Act 2000 to information held by the council. A request made under this must :-

- (i) Be in writing or by e-mail;
- (ii) Provide a name and address where the information should be sent;
- (iii) Specifically describe the information required.

4.2 The member does not have to demonstrate a “need to know” but where information is confidential, personal data or commercially sensitive it is likely to be exempt from disclosure.

### **5. Code of Conduct**

5.1 In seeking any information the member concerned has to ensure that there is no breach of the code of conduct.

### **6. Data Protection Act 1998**

Members have to abide by the provisions of the Data Protection Act and not use personal data for purposes which are inconsistent with the purposes that it was stated to be obtained for.

### **7. Disposal of information**

The council has a records management policy and the period for which records are to be held varies in accordance with the information kept and the statutory requirements. If a member is given information that would not normally be available to the public, or press, the information must not be divulged nor should the information be used improperly. The information should be disposed of in a safe and confidential manner.

## **8. Advice to Executive Members**

- 8.1 Chief Officers provide advice to executive members on the development and implementation of policy and the delivery of the functions for which the executive member has overall responsibility for.
- 8.2 In addition to briefings given at informal meetings of the Executive, executive members have the right to regular confidential briefings from chief officers and heads of service. In instances where the executive member is made aware of anticipated difficulties that represents a significant risk to the council's legal, financial or reputational position it will be the responsibility of the executive member to brief the chairman of Scrutiny. In a case of an audit function then the executive member or chief officer shall brief the chairman of the Audit Committee.

## **9. Advice to all members of the council**

- 9.1 It will be the responsibility of executive members to ensure that all members of the council are briefed on key issues that are likely to represent a significant risk to the council's legal, financial or reputational position. This may be supported by briefings from chief officers.
- 9.2 Any member of the council may request a briefing on a specific issue from a chief officer or appropriate head of service. The ability to respond to such requests will need to be in accordance with the priorities and timescales of the relevant officers. Any problems will be referred, if necessary, to the managing chief officer, for resolution with the member concerned and where appropriate the group leader.

## **10. Advice to Political Groups**

Chief Officers will provide briefings to a political group on a specific issue provided a similar opportunity is afforded to all other political groups.

## **11. Exceptions**

The type of information that will not be supplied include that which relates to individual employees; recipients of services and financial assistance from the council; adoption, care, fostering and education of any particular child; details of a proposed contract and legal advice.

## **12. Mediation**

- 12.1 Any chief officer who has any reasonable doubt regarding the release of information should seek the advice of the monitoring officer.
- 12.2 If a councillor is refused any information and is not satisfied with the reasons stated by the head of service for this decision then they can seek the guidance of the monitoring officer.

### 13. **Application to Co-opted and Independent Members on Council Committees**

Any reference in this protocol to a councillor shall also include any co-opted or independent member on a council appointed committee.