



Monitoring Officer  
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# CONSTITUTION

Name of meeting

**CONSTITUTION**

Date

**FRIDAY 31 MARCH 2023**

Democratic Services

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Details of this and other Council committee meetings can be viewed on the Isle of Wight Council's website at <http://www.iwight.com/Meetings/current/>. This information may be available in alternative formats on request. young people are welcome to attend Council meetings however parents/carers should be aware that the public gallery is not a supervised area.



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CHRISTOPHER POTTER  
Monitoring Officer  
Date Not Specified

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## CONSTITUTION

August 2022 version 9.1

(This replaces all versions numbered 9 or less)

**updated Members allowance scheme**

### NOTE

The officer/staff titles used in this Constitution reflect the organisational structure as at the date of publication. This may change from time to time; please refer to the Monitoring Officer if in doubt.

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## GLOSSARY

| TERM                               | SIMPLE EXPLANATION  | DETAILED EXPLANATION  |
|------------------------------------|---|---|
| <b>Approved List</b>               | A list of Suppliers drawn up following a suitable competitive process.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Clear days</b>                  | In relation to the period of a notice, the period excluding the day on which the notice is given or served and the day for which it is given or on which it is to take effect.  | Clear days means a complete period of 24 hours (including weekends and Bank Holidays) excluding the day when notice is given and the day for which it is to take effect.  |
| <b>Community Governance Review</b> | Essentially, a petition to council seeking to change the way an area of the authority is governed by establishing a parish council.   | See the Local Government & Public Involvement in Health Act 2007 (Part 4) and Guidance on Community Governance Reviews issued by the Local Government Boundary Commission.<br>For a petition to be valid it must be signed by the requisite number of local electors:<br>a) for an area with fewer than 500 local electors, the petition must be signed by at least 50% of them;<br>b) for an area with between 500 and 2,500 local electors, the petition must be signed by at least 250 of them; and,<br>c) for an area with more than 2,500 local electors, the petition must be signed by at least 10% of them. |
| <b>Contract</b>                    | Any agreement for the supply of goods, services, or the execution of works to or for the council, including:<br>(a) the use of consultants<br>(b) any Framework Agreement<br>(c) any agreement where no payment is made by the council but which is of financial value to a contractor (e.g. a catering concession) | See Contract Standing Orders in Part 3 Section 20   |
| <b>Contract Database</b>           | The central record of contracts held by the council.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Contract Evaluation Panel</b>   | A group of staff members with knowledge and experience of the contract who evaluate tender submissions in accordance with the evaluation criteria set out in the tender documentation.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Contract Notice</b>             | An advert and/or call for competition.  | See Contract Standing Orders in Part 3 Section 20   |

| <b>TERM</b>                      | <b>SIMPLE EXPLANATION</b>  | <b>DETAILED EXPLANATION</b>  |
|----------------------------------|--|--|
| <b>Contracts Store</b>           | The central store of contracts held by the council.  | See Contract Standing Orders in Part 3 Section 20  |
| <b>Co-Opted Member</b>           | A co-opted or independent member of the council, Independent Persons and members of the Independent Remuneration Panel.  |  |
| <b>Corporate Management Team</b> | Internal senior officer board. Purpose: to provide effective leadership and direction for the work of the council ensuring that priorities as set out in the Corporate Plan are delivered.                               | Consisting of: <ul style="list-style-type: none"> <li>● Chief Executive (Chair);</li> <li>● Assistant Chief Executive &amp; Chief Strategy Officer</li> <li>● Director of Adult Social Services</li> <li>● Director of Children’s Services</li> <li>● Director of Neighbourhoods</li> <li>● Director of Corporate Services</li> <li>● Director of Finance (Chief Finance Officer)</li> <li>● Assistant Director of Finance</li> <li>● Director of Regeneration</li> <li>● Director of Public Health</li> <li>● Monitoring Officer</li> <li>● Principal Officer for Communications (or their deputies)</li> </ul> |
| <b>Decision-makers</b>           | Full Council or its committees, Cabinet, individual Cabinet Members, or officers.  | See Part 3 Sections 6-16 for the detailed terms of reference of the council’s committees, Cabinet, etc, and the scheme of delegation to staff members  |
| <b>Deputy Chief Officer</b>      | A person who reports directly or is directly accountable to one or more Statutory or Non-Statutory Chief Officers, but excluding anyone whose duties are solely secretarial, clerical or are otherwise support services. | See Part 3 Section 6, (Scheme of Delegation) and Part 4D (Officer Employment Rules)  |
| <b>Executive Decisions</b>       | Most decisions, taken in accordance with, and in order to implement, the Budget and Policy Framework by the Leader, Cabinet, Cabinet Members or officers acting under delegated authority.                               | See Part 3 Section 2   |
| <b>Forward Plan</b>              | A list of all the planned significant decisions of the Cabinet and Full Council in the following four months. The Forward Plan is updated monthly on the council’s website.  | See Part 3 Section 14  |

| <b>TERM</b>                               | <b>SIMPLE EXPLANATION</b>  | <b>DETAILED EXPLANATION</b>   |
|---|--|---|
| <b>Framework Agreement</b>                | An agreement with suppliers that sets out the terms and conditions under which specific purchases can be made, either set up by the council or another contracting authority.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Governance Arrangements</b>            | The political management model under which the council operates. The Isle of Wight Council operates under a strong Leader and Cabinet model. There are two other main options: directly-elected Mayor or the committee system. Legislation requires that a petition to the council that meets a specified threshold will trigger a referendum to change the model. | Guidance is set out in section 9M of the Local Government Act 2000 and the Local Authorities (Referendums) (Petitions) (England) Regulations 2011   |
| <b>Governance Statutory Chief Officer</b> | <ul style="list-style-type: none"> <li>• Head of Paid Service (Chief Executive)</li> <li>• Monitoring Officer</li> <li>• Chief Finance Officer</li> </ul>  | See Part 3 Section 6, (Scheme of Delegation) and Part 4D (Officer Employment Rules)   |
| <b>Grant</b>                              | An agreement giving financial assistance to an individual or organisation for a specific purpose with no supply of goods or services, or execution of works, in return.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Invitation to Tender (ITT)</b>         | The process whose purpose is to invite Suppliers to bid for the supply of specific goods, works or services, where the contract value is over £100,001.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Key Decisions</b>                      | The most important Executive decisions involving significant expenditure and/or having a significant community impact.   | <p>An Executive decision that is likely to:</p> <p>(a) result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or</p> <p>(b) be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions. Central government guidance clarifies what is meant by “significant impact on communities”:</p> <ul style="list-style-type: none"> <li>• For example, a decision to close a school or carry out road works (such as</li> </ul> |

| TERM                               | SIMPLE EXPLANATION   | DETAILED EXPLANATION  |
|------------------------------------|--|---|
|                                    |  | <p>introducing or altering traffic calming measures) in a neighbourhood, notwithstanding the thresholds of financial significance and that there may be an impact on only one division</p> <ul style="list-style-type: none"> <li>• Where a decision is only likely to have a significant impact on a small number of people in one division, those people should nevertheless be informed of the forthcoming decision and sufficient time allowed for them to exercise their rights to see the relevant papers and make an input into the decision making process</li> </ul> |
| <b>LGPS</b>                        | 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 Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009  |
| <b>Local Choice Functions</b>      | A list of functions that the council has decided will be exercised by either Full Council, committees, Cabinet or officers.  | Local choice functions are set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. See Part 3 Section 9   |
| <b>Non-Executive Decisions</b>     | Decisions that are taken, or delegated to committees or officers, by Full Council.   | For example, planning and licensing applications, audit matters and human resource matters that cannot be taken by Cabinet or individual Cabinet Members. See Part 3 Section 2  |
| <b>Non-Statutory Chief Officer</b> | A person who is directly accountable to the Head of Paid Service, or who reports directly or is directly accountable to the local authority itself or any committee or sub-committee of the authority; but excluding anyone whose duties are solely secretarial or | Refer to Part 3 Section 6, (Scheme of Delegation) and Part 4D (Officer Employment Rules)  |

| TERM                               | SIMPLE EXPLANATION  | DETAILED EXPLANATION  |
|------------------------------------|---|---|
|                                    | clerical or are otherwise support services.   |   |
| <b>Policy Framework</b>            | A list of policies, plans and strategies which Full Council approves on recommendation of Cabinet. There are detailed rules on its operation; e.g. to resolve disputes between the Cabinet and Full Council when setting the Framework, and on the role of scrutiny.  | See Part 3 Section 5  |
| <b>Procurement Board</b>           | The senior officer group whose chair, the Director of Corporate Services, has responsibility for providing advice and recommendations to Directors regarding: <ul style="list-style-type: none"> <li>• waivers to Contract Standing Orders (CSOs)</li> <li>• price variations in excess of 10% or £100,000</li> <li>• compliance with CSOs</li> </ul> | The Board is made up of: <ul style="list-style-type: none"> <li>• Director of Corporate Services</li> <li>• Strategic Manager for Legal Services</li> <li>• Procurement and Contract Manager</li> <li>• Technical Finance Manager</li> </ul> The quorum is three. |
| <b>Quote</b>                       | 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  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Request for Quotation (RFQ)</b> | 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   | See Contract Standing Orders in Part 3 Section 20   |
| <b>Scheme of Delegation</b>        | The scheme of delegation lists those decisions that can be made by officers of the council and identifies the relevant officer.   | See Part 3 Sections 10-12 and 18  |
| <b>Scheme Manager</b>              | Means the Isle of Wight Council (as delegated to the Isle of Wight Pension Fund Committee) as administering authority of the Isle of Wight Council Pension Fund.  | See Part 3 Section 6  |
| <b>Service Manager</b>             | A council officer with management responsibility for a service area.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Specification</b>               | A document that clearly, accurately and completely describes in detail what the council intends to purchase.  | See Contract Standing Orders in Part 3 Section 20   |
| <b>Standstill</b>                  | 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,   | See Contract Standing Orders in Part 3 Section 20   |

| TERM                           | SIMPLE EXPLANATION   | DETAILED EXPLANATION   |
|--------------------------------|--|--|
|                                | before the contract is signed with the successful supplier.  |  |
| <b>Statutory Chief Officer</b> | <ul style="list-style-type: none"> <li>• Head of Paid Service (Chief Executive)</li> <li>• Monitoring Officer</li> <li>• Chief Finance Officer</li> <li>• Director of Children’s Services</li> <li>• Director of Adult Social Services</li> <li>• Director of Public Health</li> </ul> | Refer to Part 3 Section 6, (Scheme of Delegation) and Part 4D (Officer Employment Rules) |
| <b>Supplier</b>                | 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.   | See Contract Standing Orders in Part 3 Section 20  |
| <b>Tender</b>                  | A formal submission in response to an ITT by a supplier setting out the delivery method and cost for a particular contract.  | See Contract Standing Orders in Part 3 Section 20  |

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## **PART 2 – INTRODUCTION**

### **1. THE CONSTITUTION**

The council exercises its powers and duties in accordance with the law and this Constitution. The Constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that they are efficient, transparent and accountable to local people.

The purpose of the Constitution is to:

- (a) enable the council to provide clear leadership to the Isle of Wight community in partnership with members of the public, businesses and other organisations
- (b) support the active involvement of the public in local authority decision-making
- (c) help councillors to represent their constituents
- (d) enable decisions to be taken efficiently and effectively
- (e) create a means of holding decision-makers to public account
- (f) ensure that decision-makers are clearly identifiable and that they explain the reasons for decisions

The Constitution is divided into the following sections:

#### Part 1 - Contents, Index and Glossary

A list of contents and an index. An explanation of the meaning of some of the expressions used in the Constitution set out in a glossary of terms.

#### Part 2 - Introduction

Setting out general information about what is included, the decision-making processes, how key parts of the council operate, members' key duties and the rights of the public to become involved.

#### Part 3 – Responsibility for Functions

Setting out how decisions are made, including the responsibilities and terms of reference of the council's committees and boards, including the Cabinet and other Executive functions.

#### Part 4 - Rules Governing How the Council Operates

Setting out detailed procedure rules (standing orders), covering how meetings operate, including Full Council, Cabinet, Scrutiny and other committees. Cabinet Member portfolios are set out here. It also sets out the Petition Scheme.

#### Part 5 - Codes and Protocols

Explaining how Councillors and staff of the council must conduct themselves according to the various codes of conduct and protocols, such as the Access to Information rules and the use of resources and gifts and hospitality.

#### Part 6 - Members Allowance Scheme

Setting out details of all the allowances that members are entitled to claim.

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## **2. COUNCILLORS**

### **Composition**

The Isle of Wight Council has 39 elected councillors. Each councillor represents the residents in their electoral division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

### **Eligibility**

Only registered voters living or working within the Island for the previous 12 months prior to an election are eligible to stand as a councillor. They must be a citizen of the United Kingdom, the Republic of Ireland or the Commonwealth, or a relevant citizen of the European Union and be at least 18 years old.

### **Election and Terms of Office**

The election of councillors is held on the first Thursday in May every four years with the next ordinary elections due to be held in May 2025. The terms of office of councillors start on the fourth day after being elected and finish on the fourth day after the date of the next election.

### **Transitional arrangements**

Unless they resign or become disqualified, the Chairman and Vice-Chairman of the Council and the Leader of the Cabinet are in those posts until their successors are appointed at the annual meeting of the council even if, in an election year, they are not re-elected at that election.

Where a councillor holds another post described in this Constitution and they are re-elected at an election, they continue in that post until the annual meeting of the council immediately following that election. If they are not re-elected, then the post is vacant until a replacement is appointed.

### **Responsibilities**

All elected councillors have the following roles and responsibilities:

- (a) collectively determine the Budget and Policy Framework and effectively discharge the functions that are the responsibility of Full Council
- (b) contribute to the good governance of the Isle of Wight and actively encourage community participation in policy formulation and decision making
- (c) effectively represent the interests of their electoral division and of individual constituents
- (d) respond to constituents' enquiries and representations, fairly and impartially
- (e) be available to represent the council on other bodies
- (f) maintain high standards of conduct and ethics, in accordance with the Member Code of Conduct, the Protocol for Member/Officer Relations (see Part 5 Section 8) and other procedures and protocols set out in the Constitution
- (g) share responsibility with staff of the council to act as effective and caring corporate parents for looked after children
- (h) hold the Cabinet to account as either a member of Full Council or as a councillor sitting on any of the Scrutiny committees or sub-committees
- (i) promote good community relations, ensure greater public/stakeholder participation and take and encourage steps to reduce crime and eliminate inequality of opportunity and unlawful discrimination

- (j) promote the economic, social and environmental well-being of the Island and to have regard to any island-wide strategies when doing so
- (k) develop and maintain a working knowledge of the authority's services, management arrangements, powers, duties and constraints
- (l) focus on service improvement and efficiency at a strategic and political level and not become involved in detailed operational or managerial issues
- (m) engage with the media in accordance with agreed protocols
- (n) complete a 300 word annual report for publishing on the council's website for the annual council meeting each year other than local election years

### **Political group leaders**

Two or more councillors may form a political group under the Local Government (Committees and Political Groups) Regulations 1990 and appoint a leader of that group. The wishes of the group are taken to be those expressed by the leader.

The Chief Executive organises and chairs regular meetings of political group leaders to:

- ensure that the Constitution operates effectively
- ensure that the administrative machinery (including appointments) is up to date
- share information about policy and performance to enable political debate and challenge, and to drive up the delivery of service improvement and efficiency.

### **Rights and duties**

Councillors have rights of access to such meetings, documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law. These rights are set out in the Access to Information rules (see Part 5 Section 2).

Councillors will not make public, information which is confidential or exempt without the consent of the Monitoring Officer or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. For these purposes, "confidential" and "exempt" information are defined in the Access to Information rules (see Part 5 Section 2).

### **Allowances**

Councillors receive allowances in accordance with the Member's Allowances Scheme (see Part 6). The scheme also provides allowances for certain post holders and co-opted and independent members.

### **3. OFFICERS/STAFF**

#### **The council's staff**

The people who work for the council (its officers/staff) give advice, implement decisions and manage the day-to-day delivery of services. Officers/staff members provide information and professional advice to provide a proper basis for decision-making.

The most senior staff member is the Chief Executive who is also the council's statutory Head of Paid Service, and has responsibility for determining the management and staff structure for delivering council functions and policies within available resources. Other senior managers lead different parts of the council's services.

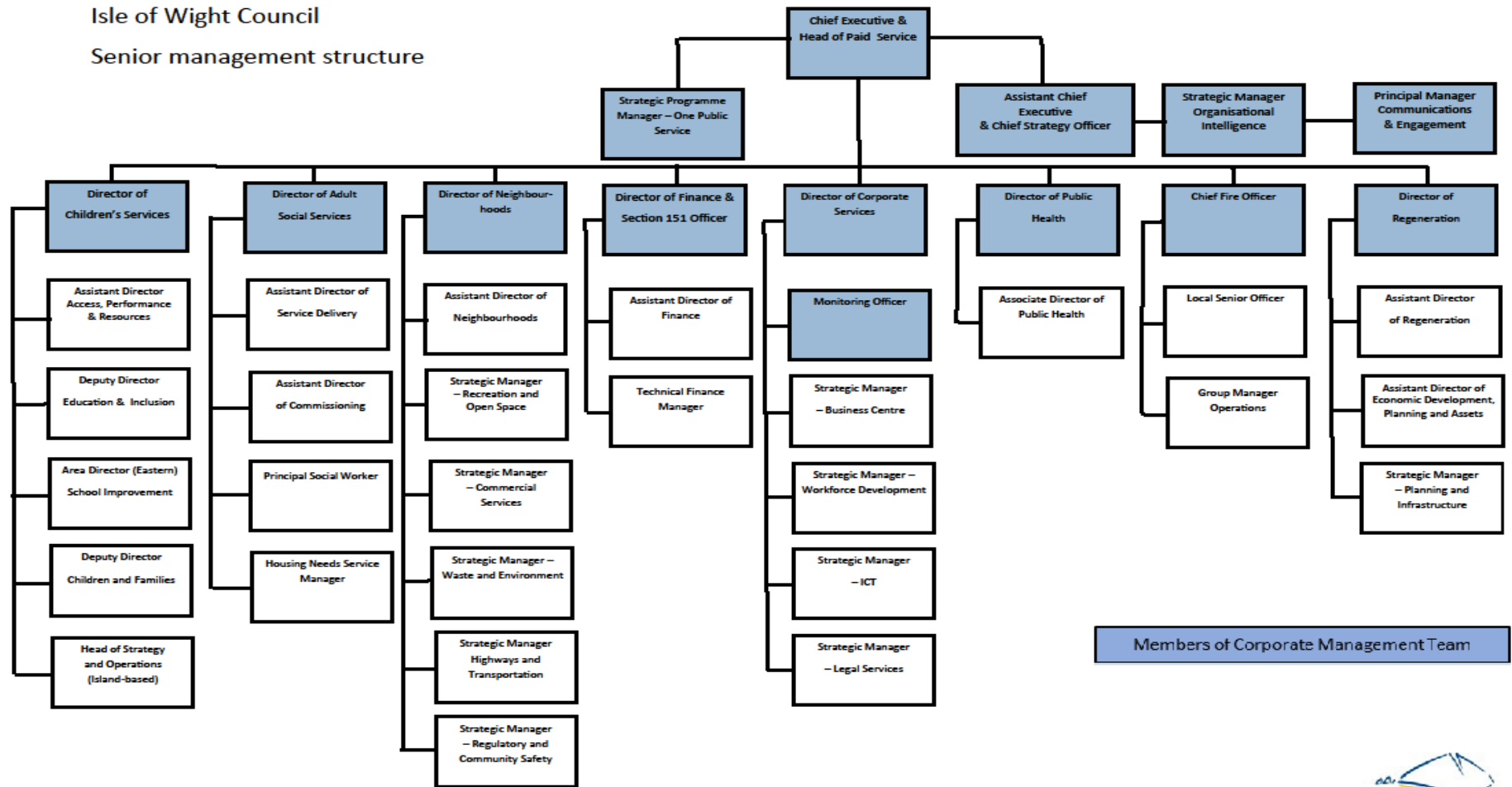
The Monitoring Officer and the Chief Finance Officer have specific duties to ensure that the council operates within the law and uses resources wisely. The council provides the Monitoring Officer and Chief Finance Officer with such staff, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

The Protocol for Member/Officer/Staff Relations guides members and officers/staff in their relations with one another to ensure the smooth running of the council (see Part 5 Section 8). Staff comply with the Employee Code of Conduct (see Part 5 Section 9).

The functions and responsibilities which the council has given to the senior staff are listed in the Officer Scheme of Delegation (see Part 3 Sections 10-12 and 18).

The recruitment, selection, discipline and dismissal of staff is done in accordance with specific rules (see Part 4D).

**Management structure** The current senior management structure is shown below (please note that the Director, Assistant Deputy Directors of Children’s Services are shared posts with HCC):



#### 4. THE PUBLIC

The council welcomes participation by members of the public in its work. Members of the public who grow up, study, work, live and visit the Island have a number of rights in their dealings with the council, including:

- (a) vote at local elections, if they are registered
- (b) contact their local councillor about any matter of concern to them
- (c) attend meetings of Full Council, Cabinet, Scrutiny and Regulatory committees, except where confidential or exempt information is likely to be disclosed
- (d) find out from the Forward Plan what major decisions will be taken and when by Full Council, Cabinet, Cabinet members and staff
- (e) view agendas, public reports, background papers and any public records of decisions made by Full Council, Cabinet, Cabinet members, Scrutiny and Regulatory committees and staff
- (f) sign a petition:
  - (i) requesting the establishment of a parish council or similar Community Governance Review
  - (ii) requesting a referendum to replace the council's political management model
  - (iii) on any matter within the council's purview
- (g) inspect the following documents:
  - (i) the Constitution
  - (ii) the Register of Members' Interests
  - (iii) the council's accounts as part of the annual audit and make their views known to the external auditor
  - (iv) pay and remuneration policies for chief and senior staff members
- (h) access other information as set out in the Access to Information rules (see Part 5 Section 2)
- (i) make complaints about services to:
  - (i) the council, under its customer complaints scheme
  - (ii) the Ombudsman, after using the council's complaints scheme
  - (iii) the Monitoring Officer, about alleged breaches of the Member Code of Conduct
- (j) ask questions at most meetings
- (k) contribute to the discussions of Scrutiny committees at the discretion of the chairman of the meeting
- (l) take part in the council's consultation activities
- (m) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011

Members of the public must not harass or be violent, abusive or threatening to councillors or staff and must comply with the procedures for public engagement at meetings.

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## **5. FULL COUNCIL**

### **Role**

All councillors meet together a number of times each year as Full Council, which is the supreme political body on the Isle of Wight.

### **Council meetings**

There are five types of Full Council meeting:

- (a) Annual meeting
- (b) Budget meeting
- (c) Ordinary meetings
- (d) Extraordinary meetings
- (e) Meetings required to be convened for a special purpose, e.g. for the appointment of honorary aldermen and alderwomen

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## **6. CABINET**

The Council operates an Executive form of governance. This means that Full Council appoints an Executive Leader. The Leader then appoints between two and nine other councillors who, together with the Leader, form the Cabinet. The Cabinet is the part of the council that is responsible for most day-to-day decisions.

### **Executive Leader**

The Executive Leader is a councillor elected at the first annual meeting of the Full Council after election and holds office for four years until the day of the annual meeting of the Full Council after the next election unless, at an earlier date:

- (a) they resign from office
- (b) they are disqualified from office
- (c) the expiry of their fixed term, i.e. the date of the post-election annual meeting that follows their election as Leader
- (d) they are removed from office by Full Council resolution, submitted by at least five councillors and nominating an alternative candidate for the vacated position in accordance with Procedure Rules (see Part 4A Section 9)

If the council passes a resolution to remove the Leader, a new Leader is elected either at the meeting at which the Leader is removed from office or at a subsequent meeting.

If a vacancy in the office of Leader arises for the reasons set out at (a) or (b) above, a new Leader is elected at the next scheduled meeting of Full Council or at an Extraordinary Meeting of the council.

The Leader, or when absent, the Deputy Leader, will chair Cabinet meetings. Otherwise, councillors present will elect a chairman for that meeting.

The Leader determines which individual Cabinet members, Cabinet committees, officers or joint or other bodies are responsible for the exercise of particular Executive functions. In particular, the Leader may:

- (a) allocate areas of responsibility to those councillors or bodies
- (b) arrange for the discharge of Executive functions by himself, the Cabinet collectively, Cabinet committees, individual Cabinet members or senior managers
- (c) determine the membership of Cabinet committees

All the Leader's decisions under (a)-(c) take effect only when they have been notified to all councillors through the Monitoring Officer. Any subsequent changes must similarly be notified to all councillors before any decision under those changed arrangements can be made.

Cabinet members can be removed from office by the Leader by written notice to the councillor concerned and the Monitoring Officer.

### **Deputy Leader**

The Leader must appoint at least one of the Cabinet Members as Deputy Leader, who holds office until the end of the Leader's term of office, unless they:

- (a) resign as Deputy Leader
- (b) cease to be a councillor

- (c) are removed from office by the Leader

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

In the absence of the Leader, the Deputy Leader exercises the Leader's powers in respect of portfolio responsibilities, but not the functions conferred by statute solely on the Leader, such as appointing or removing Cabinet Members or objecting to senior officer appointments and dismissals.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet must act in the Leader's place or arrange for another Cabinet Member to act in their place until the Chairman of the Council can call a meeting of Full Council to elect a new Leader.

### **Other Cabinet Members**

Other Cabinet Members hold office until:

- (a) they resign from office
- (b) they are no longer a councillor
- (c) the expiry date of their term of office (i.e. at the date of the Annual Meeting of the council in any year) save that the Leader may remove a Cabinet Member from office at an earlier date

No substitution arrangements will apply to the Cabinet, and neither the Chairman nor Vice Chairman of the Council may be appointed to the Cabinet.

### **Cabinet Proceedings**

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

Cabinet meetings are held at a time and place determined by the Cabinet. Cabinet Meetings are held in public unless the law requires or, where lawfully allowed, Cabinet decides it is expedient to exclude the press and public.

Cabinet meeting agendas are determined by the Leader, in consultation with relevant chief officers. Items will only be placed on the agenda if they have appeared on the Forward Plan, unless the general notice or special urgency provisions apply in exceptional circumstances (see Part 3 Section 17).

The quorum of the Cabinet is three. Voting is usually by a show of hands. A simple majority prevails and in the event of a tied vote the chairman will have a second or casting vote.

Members of the public have the right to ask questions at each ordinary Cabinet meeting.

Members of the council may ask questions about budget and policy at a strategic level, and will be given an opportunity to speak on each item before the vote is taken.

The Isle of Wight Youth MP may attend (unless the press and public have been excluded) and speak at any meeting of the Cabinet in a non-voting consultative capacity.

The Isle of Wight Youth Council may nominate two of their members (in a non-voting capacity) to attend the Cabinet as a point of consultation between the Cabinet and the Youth Council. They may attend (unless the press and public have been excluded) and speak at any meeting of the Cabinet in a non-voting consultative capacity.

## 7. OVERVIEW AND SCRUTINY

Scrutiny is a key democratic mechanism for holding public-service decision-makers and providers to account and facilitating the improvement of public services on the Isle of Wight. Effective scrutiny enhances accountability, ensures transparency of decision-making, contributes to service improvement and acts as a 'check and balance' on decision-makers.

Working with members of the public and professionals, Scrutiny councillors undertake the following roles:

- (a) monitor, question and investigate the performance of the Cabinet, individual decision-makers and council services
- (b) develop, review and make recommendations for the improvement of services and activities commissioned by the council
- (c) publicly hold to account Cabinet members and staff making decisions
- (d) contribute to the development of budget and policies
- (e) discharge specific Scrutiny functions in relation to health, flooding and crime and disorder
- (f) scrutinise other public service providers' work and its impact on the local community

Scrutiny should be carried out in a proactive and constructive way and contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants, visitors and businesses.

The council has established a suite of Scrutiny committees. The Scrutiny committees may in turn, 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 (see Part 3 Section 9).

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## **8. REGULATORY COMMITTEES AND BOARDS**

Legislation excludes specific issues from being Executive decisions, including the council's overall Budget and Policy Framework, quasi-judicial/administrative matters (such as planning and licensing applications) and issues related to staffing, pensions, audit and standards. The Council has established the following Regulatory committees and boards to deal with these areas:

- (a) Appeals Committee
- (b) Appointments and Employment Committee
- (c) Audit Committee
- (d) Harbour Committee
- (e) Licensing Committee
- (f) Local Pension Board
- (g) Pension Fund Committee
- (h) Planning Committee

Each committee and board has delegated authority from Full Council to undertake the responsibilities and actions falling within its terms of reference (see Part 3 Section 6).

Every committee member must attend relevant mandatory training prior to participating in the work of the committees or their sub-committees.

In addition to the procedure rules for the regulation of council proceedings, the relevant Regulatory committees shall comply with:

- (a) Planning, Licensing and Appeals Committees Rules (see Part 3 Section 7)
- (b) Code of Practice for Members and Officers Dealing with Licensing Matters (see Part 5 Section 10)
- (c) Code of Practice for Members and Officers Dealing with Planning Matters (see Part 5 Section 11)

The quorum of the Regulatory committees is three elected councillors/members (with the exception of Planning Committee, which is four).

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## 9. JOINT ARRANGEMENTS

The council has several methods of establishing bodies for decision-making or consultation with other local authorities, partners, officer representatives and members of the public. These bodies may be set up for a specific purpose or to more generally promote the economic, social, or environmental well-being of the Island.

Joint arrangements with other local authorities may be established to exercise Executive and/or Non-Executive functions. The establishment of joint committees that exercise Executive powers requires the agreement of the Leader. The establishment of joint committees that exercise Non-Executive powers requires the approval of Full Council.

Political balance rules apply to joint committees that exercise Non-Executive powers and where Full Council appoints to three or more seats. If any Executive functions are to be exercised, then a Cabinet member must be appointed if the Leader appoints to two or more seats on the committee. Political balance rules do not apply to joint arrangements that only exercise Executive powers. Only Cabinet members may be appointed to these joint committees.

Current joint arrangements include:

- (a) Hampshire and Isle of Wight Fire and Rescue Authority
- (b) Health and Wellbeing Board
- (c) Safeguarding Children Partnership
- (d) Safeguarding Adults Board
- (e) Corporate Parenting Board
- (f) Police and Crime Panel
- (g) Standing Advisory Council for Religious Education
- (h) Economic Development Board
- (i) ACCESS Pool Joint Committee

Details of joint arrangements are listed in Part 3 Section 8.

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## **10. FINANCE, CONTRACTS AND LEGAL MATTERS**

### **Financial Management**

The management of the council's financial affairs is conducted in accordance with the [Financial Regulations](#) (see Part 3 Section 19).

### **Contracts**

Every contract made by the council will comply with the Contract Standing Orders (see Part 3 Section 20).

### **Legal Proceedings**

The Strategic Manager for Legal Services 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 they consider that such action is necessary to protect the council's interests.

The Strategic Manager for Legal Services may authorise staff members 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.

### **Authentication of Documents**

Where a document is required to support any legal procedure or proceedings on behalf of the council, it will be signed or authenticated by the Strategic Manager for Legal Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

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

The common seal of the council is used to authenticate official council documentation. It is kept in a safe place in the custody of the Strategic Manager for Legal Services. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents that, in the opinion of the Strategic Manager for Legal Services, should be sealed. The affixing of the common seal will be attested by the Strategic Manager for Legal Services or some other person authorised by them and a record shall be kept of all documents sealed.

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## **11. REVIEW AND REVISION OF THE CONSTITUTION**

The Monitoring Officer reviews the operation of the Constitution to ensure that its aims and principles are given full effect. Changes to the Constitution will only be approved by Full Council after consideration of the proposal by the Monitoring Officer. The Monitoring Officer has delegated authority to amend the Constitution to:

- (a) reflect decisions taken by Full Council, the Leader, Cabinet, a Cabinet member, a committee or officer
- (b) reflect changes in the law
- (c) make changes to factual references
- (d) correct errors or clarify ambiguities where to do so does not alter (but gives effect to) the Executive arrangements or the principles enshrined in the Constitution

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## **12. SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **Suspension of the Constitution**

The council procedure rules set out in Part 4 may be suspended by Full Council to the extent permitted within those rules and the law.

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 Part 2 Section 1.

### **Interpretation**

The ruling of the Chairman of the Council or such other person duly presiding, after taking advice from the Monitoring Officer, shall not be challenged at any meeting of Full Council. Such interpretation will have regard to the purposes of this Constitution contained in Part 2 Section 1.

### **Publication**

The Monitoring Officer will ensure that a copy of the Constitution is available to each member of the council either via the council's website, or in hard copy if requested, upon receipt of that member's declaration of acceptance of office on first being elected to the council.

The Monitoring Officer will ensure that copies are accessible for public inspection at council offices, libraries and other appropriate locations. Access by electronic means shall be sufficient for these purposes.

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## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **1. Principles of Decision Making**

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

- (a) take into account all relevant considerations and ignore those which are irrelevant
- (b) compliance with finance, contract and all other procedure rules
- (c) due consultation and proper advice is taken and alternative options considered before decisions are reached
- (d) impartiality and an absence of bias or pre-determination
- (e) any interests are properly declared
- (f) decisions are properly recorded and published
- (g) decisions are proportionate to the desired outcome
- (h) respect for human rights and equality impacts
- (i) a presumption in favour of transparency and openness
- (j) clarity of aims and desired outcomes
- (k) due consideration of all available options
- (l) reasons are given for decisions

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## **2. Executive and Non-Executive Functions**

Decisions taken by the council are divided by law into two types: Executive and Non-Executive.

Executive decisions relate to all of the council's functions that are not Full Council (or Non-Executive) functions. They include those Local Choice functions identified below as the responsibility of the Executive. Executive decisions are taken by the Leader, Cabinet, Cabinet committees, Cabinet Members or officers under delegated authority in accordance with, and in order to implement, the Budget and Policy Framework.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive; which may (but need not) be the responsibility of the Executive (the "Local Choice functions"); and which are to some extent the responsibility of the Executive. All other functions not so specified are the responsibility of the Executive.

Non-Executive functions are powers and duties that under statute are not the responsibility of the Executive Leader, Cabinet or Cabinet members. The power to exercise Non-Executive functions is either reserved to Full Council or delegated by Full Council to committees or officers, as set out below.

This Part sets out the functions and decision making arrangements for Full Council, Cabinet, Cabinet members, committees and officers, and makes clear how these distinctions are given effect and sets out the Local Choice functions by identifying:

- (a) the responsibilities of Full Council and its committees
- (b) the responsibilities of the Cabinet, its committees and Cabinet members
- (c) those functions which are not the responsibility of the Executive to a specified extent
- (d) those functions which are delegated to an officer

The Council, Cabinet, committees and officers will follow their relevant procedure rules, the schemes of delegation and the principles set out in this section when taking decisions.

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### 3. Decision-Making Structure

This diagram shows the overall structure of the council's decision making arrangements:



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#### 4. Full Council

Full Council is responsible for the following functions:

- (a) adopts and approves changes to the Constitution other than minor amendments (see Part 2 Section 11)
- (b) adopts or amends the Budget and Policy Framework following recommendation from the Cabinet, other than minor amendments to policies (see Part 3 Section 5)
- (c) subject to the urgency procedure below, makes decisions about any Cabinet proposal that is contrary to the Policy Framework or not in accordance with the Budget
- (d) sets the Council Tax
- (e) appoints and removes the Executive Leader
- (f) appoints the chairmen of Full Council, Corporate Scrutiny and other committees
- (g) appoints or nominates representatives to joint authorities, joint committees and other outside bodies, unless the appointment or nomination is an Executive function or has been delegated by the council
- (h) agrees and/or amends the composition, terms of reference and political balance of committees, other than those established by the Cabinet
- (i) determines whether Local Choice functions should be reserved to Full Council or exercised by the Cabinet, individual Cabinet members or officers acting under delegated powers
- (j) adopts a Members' Allowances Scheme (see Part 6)
- (k) appoints/dismisses/designates the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, the Returning Officer and Electoral Registration Officer
- (l) determines the terms and conditions on which staff hold office (including procedures for their dismissal), unless otherwise delegated to a committee or officer
- (m) approves the council's response to any issues or proposals in relation to local government boundaries, including electoral divisions and the conduct of elections
- (n) takes decisions relating to the name of the area
- (o) confers the title of Honorary Alderman/Alderswoman or Freedom of the Island
- (p) agrees any payments or provides other benefits in cases of maladministration, etc
- (q) adopts the Member Code of Conduct and the Protocol for Member/Officer Relations
- (r) takes decisions in respect of Non-Executive functions that have not been delegated to committees, sub-committees or officers
- (s) approves Housing Land Transfers, i.e. authorises applications to the Secretary of State for land transfers of housing stock under sections 32, 43 and 106A and Schedule 3A Housing Act 1985, Leasehold Reform, Housing and Urban Development Act 1993
- (t) makes, amends, revokes, re-enacts or adopts bylaws
- (u) promotes or opposes the making of local legislation or personal bills
- (v) considers and debates public petitions containing 2,500 or more signatures submitted under the Petition Scheme (see Part 4C)

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## **5. Budget and Policy Framework Rules**

Full Council is responsible for the adoption of its Budget and Policy Framework. Once a Budget or Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

### **Budget**

The Budget is the identification and allocation of financial resources by Full Council, including:

- (a) revenue expenditure
- (b) contingency and reserve funds
- (c) Council Tax
- (d) borrowing requirements and limits
- (e) capital expenditure
- (f) Medium Term Financial Plan
- (g) any resolution of Full Council identified by the Chief Executive as a budgetary decision
- (h) any limitations to, conditions on or rules governing the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Financial Regulations

### **Policy Framework**

The council has a list of plans and strategies that are relevant to its functions, known as a Policy Framework. This is required by law to be decided by Full Council, usually on the recommendation of the Cabinet. It consists of the following plans and strategies:

- (a) Corporate Plan
- (b) Crime and Disorder Reduction Strategy
- (c) Early Years Development and Childcare Plan
- (d) Licensing Authority Policy Statement
- (e) Local Development Plan
- (f) Local Transport Plan
- (g) Pay Policy Statement
- (h) Youth Justice Plan
- (i) Any other plan or strategy that is required by law or which the council determines should be designated as a Policy Framework document and adopted or approved by Full Council

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 prior approval of all such appropriate parties to such an amendment has been obtained in writing.

### **Process for developing the Policy Framework**

The Cabinet will publicise, by including in the Forward Plan and any other appropriate means, a timetable for making proposals to Full Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework and any arrangements for consultation after publication of those initial proposals.

Following consultation (including policy debates by Full Council where relevant), the Cabinet will draw up firm proposals. The Cabinet will take any response from the Corporate Scrutiny

Committee into account in drawing up its proposals, and its report to Full Council will reflect any comments made by consultees and the Cabinet response.

In reaching a decision, Full Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.

If it accepts the recommendation of the Cabinet without amendment or is formally setting the Budget or Council Tax levels for a financial year, Full Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision.

An in-principle decision in relation to the Budget, plan or strategy will automatically become effective after the expiry of five working days beginning on the day after the date when the Leader is informed of Full Council's objections, unless the Leader informs the Monitoring Officer in writing, within that five working day period that they object to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.

Upon receiving written notification from the Leader, the Monitoring Officer will arrange to call a Full Council meeting within a further seven working days. Full Council will reconsider its decision and the Leader's written submissions and may:

- (a) Approve the Cabinet recommendation or
- (b) Approve a different decision that does not accord with the recommendations of the Cabinet

The decision shall then be made public and implemented immediately.

### **Decisions outside the Budget or Policy Framework**

Subject to the virement and the urgency provisions below, the Leader, Cabinet or those acting under delegated arrangements may only take decisions that are in line with the Budget and Policy Framework.

If the Leader, Cabinet or those acting under delegated arrangements wish to make a decision that is contrary to the Budget or Policy Framework, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of those officers is that the decision would not be in line with the Budget and/or Policy Framework, then the decision must be referred to Full Council, unless it is a matter of urgency, in which case the urgency provisions below shall apply.

### **Urgent decisions outside the Budget or Policy Framework**

The Leader, Cabinet or those acting under delegated arrangements may take an urgent decision that is contrary to the Budget or Policy Framework if:

- (a) it is not practical to convene a quorate meeting of the Full Council and
- (b) the chairman of Corporate Scrutiny Committee has given a written statement that the decision needs to be made as a matter of urgency

The reasons why it is not practical to convene a quorate meeting of Full Council and the chairman of the Corporate 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 Corporate Scrutiny Committee, the consent of the Chairman of the Council should be obtained. If the Chairman of the Council is also absent, such consent should be obtained from the Vice-Chairman

of the Council. The decision cannot otherwise be taken, and delay will result until Full Council makes the determination.

Following the taking of an urgent decision, the decision-maker 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.

### **Virement**

Detailed provisions concerning virement across budget heads are set out in the council's [Financial Regulations](#).

### **In-year changes to the Policy Framework**

No changes to any policy or strategy which make up the Policy Framework may be made by the Leader, Cabinet or those acting under delegated authority except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint, or
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance, or
- (c) in respect of a policy that would normally be agreed annually by Full Council following consultation, but where the existing policy document is silent on the matter under consideration

A plan or strategy within the Policy Framework may be amended by the relevant Director where it is considered, in the opinion of the Monitoring Officer and the Chief Executive (after consultation with the Leader and relevant Cabinet 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.

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## 6. Terms of Reference of Committees and Boards

### Appointment of Committees/Terms of Office

Full Council appoints the Regulatory committees and advisory boards listed below to undertake a range of Non-Executive functions of the council.

Full Council determines the number and terms of reference and allocates the number of places on each committee to each political group. The political groups nominate the councillors to serve on committees or sub-committees.

Councillors, once confirmed as members of a committee or sub-committee, continue to hold office until they:

- (a) resign
- (b) cease to be members of the council (unless re-elected for a further term)
- (c) are removed from membership by the council or their political group

Once appointed, committees continue in office until the council appoints a successor committee or resolves the committee ceases.

### Appeals Committee (10 members)

The Appeals Committee is established under s.102 of the Local Government Act 1972 to determine appeals against decisions of the council in relation to the following functions where the law, or council policy, requires the appeal to be determined by elected councillors:

- Awards
- School Transport, Curriculum Complaints, Adoption and Fostering Registration of Homes
- Housing Benefit and Council Tax
- Business Rate Hardship
- Rights of Way Orders and Highway Orders
- Tree Preservation Orders
- Approval of premises for marriage and civil partnership ceremonies
- When not dealt with by the Monitoring Officer under delegated powers, to consider dispensations from the restrictions to participate in a matter where a councillor has a Disclosable Pecuniary Interest
- Consideration of an investigating officer's report where a councillor is alleged to have breached the Member Code of Conduct
- Any other function involving an appeal process not specifically delegated elsewhere in this Constitution, or by the law, where no other delegation exists

The Appeals Committee oversees arrangements, including the appointment of the pool of councillors from which independent appeal panels are selected by the clerk to the Independent Education Appeals Panel, for school exclusions, admissions and special education needs appeals.

The Appeals Committee has the power to hear any appeal by a Governance Statutory Chief Officer against any action taken short of dismissal and to take any decision either to confirm the action or to impose no sanction or a lesser sanction and any other power reasonably required to undertake its role in relation to a Governance Statutory Chief Officer.

### **Appeals Sub-Committee (3 members)**

The Appeals Committee may appoint a sub-committee to undertake the above functions, comprising any three councillors drawn from the main committee and the quorum is three, except any matter relating to any Governance Statutory Chief Officer.

Where the Appeals Committee or Sub-Committee is determining a Code of Conduct investigation into the conduct of a town or parish councillor, it shall also comprise a non-voting co-opted Town or Parish Councillor from another council, who is not a serving Isle of Wight Council councillor and does not have a conflict of interest.

### **Appointments and Employment Committee (6 members)**

The Appointments and Employment Committee comprises six elected councillors, including the Cabinet member relevant to the post under consideration. The chairman of the committee is the Executive Leader. The Chief Executive and/or the Director of Corporate Services attend in an advisory capacity (except where their own role is being discussed).

The committee is responsible for:

- (a) the appointment of a Governance Statutory Chief Officer or a Director
- (b) making recommendations to Full Council for appointment to the Independent Remuneration Panel
- (c) hearing and determining any appeal against dismissal by any employee (except by any Governance Statutory Chief Officer)

All other officer appointment, capability or disciplinary decisions and appeals are the responsibility of the Chief Executive or an officer of the council nominated by them; members are not permitted to be involved in these decisions.

All appointments by the committee must be:

- (a) made on merit
- (b) subject to a job summary
- (c) subject to appropriate advertisement where the appointment is not an internal process

No offer of appointment of a Governance Statutory Chief Officer or Director or notice of dismissal (including by reason of redundancy) of a Director (who is not a Governance Statutory Chief Officer) shall be made until the proposed appointment or dismissal has been notified to the Cabinet and that either:

- (a) within the period specified in the notification no objection has been made by the Leader on behalf of the Cabinet; or
- (b) the committee is satisfied that any objection made is not material or well-founded

Where the committee proposes to appoint a Governance Statutory Chief Officer, a recommendation must be made to Full Council for approval prior to an offer of appointment being made.

### **Appointments Sub-Committee (3 members + 2 independents)**

Any grievance or appeal against a notice of dismissal, suspension, or issue of capability of a Governance Statutory Chief Officer or a Director is considered by a sub-committee of the Appointments Committee, comprising three members who have not had any prior involvement in consideration of the case. Where necessary, members can be drawn from the wider membership.

The membership shall also include two independent persons when dealing with action in respect of a Governance Statutory Chief Officer.

### **Audit Committee (7 members)**

The role of the Audit Committee is to:

- (a) ensure delivery of value for money
- (b) ensure 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
- (c) 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
- (d) provide assurance of the adequacy of the Risk Management Framework and associated control environment, including 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
- (e) Contribute to the development of, and approve, the annual internal audit plan, ensuring that it appropriately reflects the council's risk profile
- (f) Consider periodic reports on the performance of internal audit
- (g) 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 and ensure that it properly reflects the council's risk environment
- (h) Monitor progress towards addressing issues identified in the Annual Governance Statement
- (i) Consider the effectiveness of the council's arrangements for risk management, corporate procurement and corporate governance
- (j) Consider the effectiveness of the council's anti-fraud and corruption strategies and 'whistle-blowing' and anti-money laundering policies
- (k) Consider and approve changes to the council's financial regulations and contract standing orders
- (l) Review the annual Treasury Management Strategy and consider reports on the activities of the treasury management function
- (m) Consider reports on the progress of the property investment fund to monitor progress against the commercial property acquisition strategy, including the total income that has or will be accrued by the council
- (n) 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 Cabinet or Full Council
- (o) Review and monitor actions arising from the committee's review of the accounts or the external auditor's annual governance report
- (p) Commission enquiries into appropriate issues referred to it by the Head of Paid Service, Chief Finance Officer, internal audit or external audit
- (q) Commission and submit reports directly to Cabinet and/or Full Council, as necessary
- (r) Consideration of proposals to revise the Constitution and to make recommendations to the Full Council

The committee comprises seven elected councillors. Additionally, two independent non-voting co-opted members may be appointed on the basis of their skill, knowledge, qualification and experience relevant to the role of the committee.

Councillors nominated by group leaders should wherever possible 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 ideally not be Cabinet members or ideally not members of a Scrutiny committee due to potential conflicts of interest. The quorum is three elected councillors – see Part 2 Section 8.

The chairman is appointed on an annual basis by Full Council. In the absence of the chairman at the meeting, a chairman for the meeting shall be elected from the committee membership.

### **Harbour Committee (7 members)**

The Harbour Committee is established to advise the Council, Cabinet, and Senior Harbour Master about issues relating to the Harbours in accordance with the requirements of the Port Marine Safety Code (“PMSC”) and Health & Safety at Work legislation.

Its role is to improve, develop maintain and manage Newport (as defined in the Newport Harbour Revision Order 1988), Ventnor and Ryde Harbours (“the Harbours”) for the benefit of users, including residents, visitors and businesses, and to balance the commercial outlook by conserving and protecting the estuarine and marine environments.

The key objectives of the Harbour Committee are as follows:

- (a) Act as the Duty Holder and manage the Harbours in accordance with the PMSC
- (b) Achieve financial self-sufficiency, as far as reasonably practicable
- (c) Ensure effective maintenance and development of the Harbours’ infrastructure
- (d) Support for the local economies
- (e) Ensure the Harbours contribute to the character and attraction of the surrounding areas, as far as practicable
- (f) Ensure that the Harbours are compliant with legal and regulatory requirements
- (g) Oversee achievement of environmental considerations
- (h) Oversee open and transparent governance
- (i) Ensure the appropriate development of staff
- (j) Consider issues of risk management within the Harbours

The Harbour Committee will conduct operations in accordance with the powers granted to the Council as a Harbour Authority, including:

- (a) Develop strategic business plans for the Harbours for approval by Full Council
- (b) Make operational decisions based on advice from the Senior Harbour Master, the Designated Person, User Groups and other officers with specialist knowledge of the Harbours
- (c) Monitor and analyse performance against the budget and other performance indicators
- (d) Maintain separate accounts to demonstrate the Harbours’ commercial viability, including recommending charges and subsidies for annual approval by Full Council as part of the Medium-Term Budget Strategy
- (e) Monitor and review all matters relating to Harbour land and property in accordance with policies laid down by the Council, including overseeing contracts for harbour related services



The following functions are outside the Harbour Committee's powers and are reserved to Full Council. The Harbour Committee may, however, make recommendations to Council concerning these matters:

- (a) Amendments to governance arrangements (e.g. changes to the Harbour Committee's terms of reference and membership)
- (b) Approving and adopting budgets
- (c) Appointing the chairman of the Harbour Committee
- (d) Adopting or amending policies, plans and strategies (e.g. the Harbour Revision Order, General Directions or the Harbours strategic business plan)
- (e) To borrow money
- (f) To make, amend, revoke or adopt bylaws

The Harbour Committee comprises of up to five elected councillors, including:

- (a) Cabinet member for Resources
- (b) Cabinet member for Infrastructure and Transport
- (c) Cabinet member for Environment and Heritage

Two further elected councillors may be co-opted as and when required.

Meetings are chaired by the Cabinet member for Infrastructure and Transport.

Officers will be requested to attend as required; typically:

- (a) Assistant Director for Neighbourhoods
- (b) Strategic Manager for Commercial Services
- (c) Leisure Facilities Manager
- (d) Senior Harbour Master

In addition, the Designated Person may be invited to attend and advise on marine related issues.

The quorum of the Harbour Committee is 3 councillors and meets at least quarterly. Agendas will be issued a minimum of three working days before the meeting will include as a minimum:

- (a) Review of actions from previous meeting
- (b) Update on operational issues
- (c) Update on health and safety works
- (d) Senior Harbour Master's report on activities
- (e) Update on progress towards full compliance with the PMSC (Get-Well programme)
- (f) Finance report
- (g) Feedback from User Groups

### **Independent Panel (3 independent persons)**

The council appoints the Independent Panel with a membership of three independent members appointed under section 28 (7) of the Localism Act 2011 to perform the following functions:

- (a) To review the recommendation of the Investigating and Disciplinary Committee (IDC) to dismiss any Governance Statutory Officer
- (b) To give any advice, views and recommendations it may have to the Full Council on any proposal to dismiss a Governance Statutory Officer.

## **Investigatory and Disciplinary Committee (5 members)**

The council appoints the Investigatory and Disciplinary Committee to perform functions in relation to any Governance Statutory Chief Officer where an allegation is made relating to their conduct or their capability or there is some other substantial issue that requires investigation.

The membership of the Investigatory and Disciplinary Committee shall be 5 elected councillors of the council (including one cabinet member) who are not members of the Appeals Committee.

The Investigating and Disciplinary Committee has the following specific functions:

- (a) the power to determine whether a full investigation should take place, and if so, the power and obligation to appoint an independent investigator (usually from a list held by the National Joint Secretaries)
- (b) the power to suspend a Governance Statutory Chief Officer for a specific period of time, with the obligation to review the continuance of any such suspension if it has been in place for two months
- (c) the power to hold a hearing and to determine whether there will be a recommendation to the Full Council to dismiss the particular Governance Statutory Chief Officer, whether there is no case to answer or whether there should be action short of dismissal
- (d) to exercise any other power reasonably required to undertake its role (including the power to appoint external advisers as appropriate, and the power to take disciplinary action short of dismissal).

## **Licensing Committee (11 members)**

The council appoints the Licensing Committee to perform the following two discrete statutory functions:

- (a) To deal with applications or appeals relating to the licensing, grant of consent or permission under the Licensing Act 2003 and Gambling Act 2005 (i.e. not under s.101 Local Government Act 1972).
- (b) Under s.101 of the Local Government Act 1972, to deal with applications or appeals relating to the licensing or grant of consent or permission contained within the list set out below, where:
  - (i) the law or council policy requires the decision to be taken by elected councillors; or
  - (ii) an officer with delegated powers declines to exercise those powers; or
  - (iii) it is not otherwise specifically delegated to another part of the council

The Licensing Committee comprises the same elected councillors (and chairman) in respect of each function.

The Licensing Committee determines licensing functions, including 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
- Caravan sites
- Dangerous wild animals
- Rag flock and other filling materials
- Guard dogs
- Pet shops
- Breeding of dogs
- Game licenses
- House-to-house collections
- Pleasure boats and boatmen
- Zoos
- Sunday trading

- Regulation of street collections and street trading
- Animal boarding establishments
- Riding establishments
- Sex establishments
- Open air events under the Isle of Wight Act
- Sports grounds
- Scrap metal dealers
- Poisons and explosives
- Performing animals
- Hackney carriages and private hire vehicles
- Movement of animals
- Any other registration or licensing function not specifically delegated elsewhere in this Constitution, or by the law

The Licensing Committee also undertakes 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 Cabinet save where these functions are carried out by Full Council, another committee or have been delegated to officers).

### **Licensing Sub-Committee (3 members)**

The Licensing Committees appoint a sub-committee (known as the Licensing Sub-Committee) to carry out the above functions, unless the following criteria apply:

- (a) large events where the expected number of attendees, staff and performers will exceed 5,000 persons at any one time
- (b) applications or reviews where the sub-committee decides that the matter requires consideration by the full committee
- (c) applications or reviews which, in the opinion of the Director of Neighbourhoods in consultation with the chairman of the committee, should be considered by the full committee

The sub-committee may also deal with any other functions of the committee that 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.

The sub-committee comprises three councillors drawn from the main committee and the quorum is three.

### **Pension Fund Committee (7 members and 1 non-voting employee representative and 1 non-voting employer representative)**

The Isle of Wight Council is the Administering Authority of the Isle of Wight Council Pension Fund under the Local Government Pension Scheme (LGPS) Regulations and ss.7, 12 and 24 of the Superannuation Act 1972.

The Isle of Wight Pension Fund Committee carries out the council's statutory functions as Scheme Manager of the Isle of Wight Council Pension Fund under the above regulations. This includes responsibility for setting the strategic direction of the Isle of Wight Pension Fund, its implementation and its delivery, including:

- (a) Maintaining appropriate accounting records, including:
  - (i) collecting and accounting for employer/employee contributions and transfer values
  - (ii) paying and accounting for pension benefits and transfer values.

- (iii) investing monies not required for payment benefits, transfers and administration costs
  - (iv) monitoring budgets for the fund ensuring there is adequate budgetary control
- (b) Maintaining member records, including:
  - (i) setting up, administering and managing individual member records
  - (ii) regularly evaluating the completeness and accuracy of these records
- (c) Managing the fund valuation process, including:
  - (i) reviewing and acting on actuarial valuations
  - (ii) ensuring cash is available to meet the fund's future liabilities
- (d) Managing the investment strategy of the fund, including:
  - (i) agreeing asset allocation strategies following asset liability modelling and a policy for investment in different assets with the investment managers
  - (ii) agreeing a rebalancing strategy between different portfolios when asset allocations change due to different market movements of different sectors
  - (iii) regularly reviewing investment managers' performance and expertise against agreed benchmarks and determining any action required
  - (iv) ensuring that the fund investments are sufficiently diversified and that the fund is investing in suitable investments
  - (v) ensuring all investment activity complies with the requirements of current regulations and best practice
- (e) Preparing and maintaining the statutory statements, including:
  - (i) investment strategy statement
  - (ii) funding strategy statement
  - (iii) communications strategy
  - (iv) governance policy
- (f) Managing communications with employers, members and pensioners, including:
  - (i) ensuring communications are accurate, clear and accessible
  - (ii) ensuring employers understand the information they are required to provide
  - (iii) providing accurate and timely information to members to inform options for retirement planning
  - (iv) providing annual benefit statements within the statutory timetable
  - (v) providing assistance to employers on the pension implications of outsourcing services and on dealing with bulk transfers of pension rights
- (g) Monitoring and managing all aspects of the fund's performance, including:
  - (i) appointing and regularly monitoring the performance of investment managers, a fund actuary, custodian and professional advisors
  - (ii) appointing an additional voluntary contribution provider
  - (iii) agreeing and monitoring key performance indicators for all areas of fund administration, management and governance
- (h) Establishing and operating internal controls to administer and manage the scheme in accordance with the scheme rules, the law and the Pensions Regulator's Code of Practice on Governance and Administration of Public Service Pension Schemes
- (i) Exercising all discretionary functions as Scheme Manager for the local government pension scheme
- (j) Additional functions include:
  - (i) providing the Pensions Regulator with an annual return of the fund's registerable information and keeping that information up to date

- (ii) establishing and operating adequate internal controls to allow risks to be identified, evaluated and managed
  - (iii) ensuring that Pension Board members do not have a conflict of interest
  - (iv) operating arrangements which comply with legal requirements resolving internal disputes with members and others
  - (v) establishing adequate procedures that enable breaches to be considered and reported
- (k) Arranging the necessary training for members of both the Pension Fund Committee and the Local Pension Board to acquire and maintain the appropriate level of expertise, knowledge and skills as set out in the CIPFA Pensions Finance Knowledge and Skills Framework, including:
- (i) pensions legislative and governance framework
  - (ii) pensions accounting and auditing standards
  - (iii) financial services procurement and relationship management
  - (iv) investment performance and risk management
  - (v) financial markets and product knowledge
  - (vi) actuarial methods, standards and practices
- (l) Developing, in conjunction with the Isle of Wight Pension Board, a work programme for both Pension Fund Committee and the Pension Board, to ensure the appropriate standards of governance and administration of the scheme are maintained
- (m) Publishing information about the Pension Board, including:
- (i) who the Board members are, their employment and job title, who they represent and their specific roles and responsibilities
  - (ii) the Board appointment process
  - (iii) the Board's terms of reference
  - (iv) Board papers, agendas and minutes of meetings (redacted to the extent that they contain confidential information and/or data covered by the Data Protection Act 2018)

The above list may be changed at any time should the underlying regulations be amended.

The committee comprises seven elected councillors. In addition, there is one non-voting employee representative nominated by a recognised trades union and one non-voting representative nominated by external employers of the fund.

The committee meets quarterly, but additional formal meetings may be arranged with the approval of the chairman, if required. Informal meetings may be held for training and development purposes, to which members of the Isle of Wight Local Pension Board, and the Chief Finance Officer will be invited.

Committee members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Committee.

### **Local Pension Board (4-8 members plus an independent chairman)**

#### ***Establishment***

The Isle of Wight Council is the Administering Authority and Scheme Manager for the Isle of Wight Council Pension Fund, part of the Local Government Pension Scheme, as defined in s.4 of the Public Service Pensions Act 2013 ('the Act').

It has established the Local Pension Board ('the Board') under s.5 of the Act and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended), and the Board operates independently of the Pension Fund Committee

The Board is not a committee constituted under s.102 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the Constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly provided.

The Board is accountable to the Scheme Manager and the Pensions Regulator.

### ***Responsibility and Role of the Board***

The responsibility of the Board, as defined by sections 5(1) and (2) of the Act, is to assist the Administering Authority as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including:

- (a) securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS;
- (b) securing compliance with requirements imposed in relation to the LGPS by the Pensions Regulator; and
- (c) such other matters as the LGPS regulations may specify.

The Administering Authority retains ultimate responsibility for the administration and governance of the scheme.

The role of the Board is to support the Administering Authority to fulfil that responsibility and secure compliance with any requirements imposed by the Pensions Regulator.

In its role, the Board will have oversight of the administration and governance of the Fund including:

- (a) the direction of the Fund and its overall objectives;
- (b) the administration of benefits and contributions.

The activity of the Board can also include:

- (a) reviewing the Fund's governance and policy documents, for adoption by pension committee;
- (b) reviewing compliance with the Fund's governance and policy documents;
- (c) reviewing the administrative programme of the Fund as part of the Fund's annual report;
- (d) reviewing ACCESS pooling as part of the Fund's annual report;
- (e) reviewing the ongoing arrangements for the training of Board members;
- (f) reviewing the Fund's Risk Register, for approval by pension committee;
- (g) reviewing audit and assurance reports; and
- (h) reviewing the Fund's website and other communication methods.

## ***Membership, Eligibility, Nominations, and Appointments***

The Administering Authority shall determine its membership.

### ***Minimum and Maximum Numbers and Types of Board membership***

The Board shall consist of a minimum of four members and a maximum of eight members plus an independent chairman

No substitute members are permitted.

It is constituted with an equal number of employer representatives and scheme member representatives as follows:

- (a) Minimum of two, maximum of four, employer representatives
- (b) Minimum of two, maximum of four, scheme member representatives

### ***Employer representatives***

For the minimum membership size of four members (plus an independent chairman), one of the employer representatives shall be an elected member of the council. The other employer representative will be selected for nomination by the other employers of the Fund using the following process:

- (a) the Scheme Manager will seek nominations from all external employers
- (b) candidates will provide short biographies
- (c) employers will be asked to select their preferred candidate
- (d) the Administering Authority shall determine which candidate to appoint.

Should the total number of members increase, additional employer representatives will initially be sought from the council but may also be sought from the external employers of the Fund.

The Administering Authority must be satisfied that a person to be appointed to the Local Pension Board as an employer representative has the capacity to represent all employers.

No officer or elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board. Board representatives must therefore not be members of the Pension Fund Committee.

Where an employer representative vacancy occurs the Administering Authority shall seek to appoint a replacement as soon as practicable.

### ***Scheme representatives***

One of the scheme member representatives shall be nominated by a recognised trades union, which is responsible for arranging its own nomination of a suitable candidate, representing both active and retired members. If more than one nomination is received from two or more recognised trade unions, all such nominations shall be put forward for the Administering Authority to determine who to appoint to such a vacancy.

For all other scheme member representatives, the council will undertake a selection process by requesting expressions of interest from all active, deferred and retired members, with nominations put forward for the Administering Authority to determine who to appoint.

The Administering Authority must be satisfied that a person to be appointed to the Local Pension Board as a scheme member representative has the capacity to represent all scheme members.

Where a scheme representative vacancy occurs the Administering Authority shall seek to appoint a replacement as soon as practicable.

#### *Independent chairman*

There shall also be an independent chairman, appointed by the Administering Authority.

The chairman must have no pre-existing employment, financial or other material interest in either the Administering Authority or any scheme employer, nor be a member of the Isle of Wight Council Pension Fund. Such a chairman has no right to vote.

Where a vacancy occurs for the independent chairman position, the Administering Authority shall seek to appoint a replacement as soon as practicable.

#### *Vice-chairman*

The Board may appoint a vice-chairman on an annual basis from amongst its own number or in-year should a vacancy arise.

In the event that neither the chairman nor the vice-chairman are present, the Board members present may appoint one of their number to preside for the particular meeting.

#### *Conflict of interests*

No one may be appointed to the Board who has a conflict of interest that is considered by the Administering Authority to be prejudicial to the exercise of their functions as a Board member.

It is the responsibility of the Board member to provide any information required by the Administering Authority in order to determine whether such a conflict exists (see also 4 below 'Register of Interests and Code of Conduct').

A conflict arises where a financial or other interest is likely to prejudice a person's exercise of functions as a Board member (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).

#### *Duty to comply with role profile and to attend arranged training*

All Board members, whether scheme member or employer representatives, will be expected to comply with the role profile for Board members, published on the Pension Fund's website.

The Board shall establish and maintain a policy and framework to address the knowledge and skills requirements that apply to Board members under the Act and regulations. That policy and framework shall set out the degree of knowledge and skills required as well as how knowledge and skills are acquired, reviewed and updated.

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the knowledge and skills policy and framework. Where Board members attend external training, they will be required to provide a report back to the Board in order to share the knowledge gained with other Board members.

Following appointment, each member of the Board should be conversant with the legislation and associated guidance of the LGPS and any other document recording policy about the administration of the LGPS which is for the time being adopted.

#### *Length of term of office and removal from office*



The Chairman, each employer representative and each scheme member representative so appointed shall serve initially for a fixed four-year period from the date their appointment takes effect, which may be extended by decision of the Administering Authority for further four year terms, subject to remaining eligible, re-nomination and re-selection.

Any Board member can be removed by the Administering Authority for good cause. Without prejudice to the generality, it includes removal on the grounds of the employer representative appointed due to being a councillor ceasing to be an elected councillor for the Isle of Wight Council, the nominating body withdrawing their representative, a conflict of interest that cannot be managed, non-attendance, breach of code of conduct and non-participation in training.

Each Board member should endeavour to attend all Board meetings during the year and shall be required to attend at least two of the scheduled meetings each financial year. In the event of any Board member failing to do so, or other persistent non-attendance, (including failure to attend training sessions without reasonable cause) then the tenure of office of that member shall be reviewed by the Administering Authority.

Other than by ceasing to be eligible, a Board member may only be removed from office during their term of office by the Administering Authority.

### ***Register of Interests and Code of Conduct***

A register of interests is maintained by the Board to record and monitor its members interests and responsibilities.

The register of interests is reviewed annually by the Board and published on the scheme's website.

The principles included in the Isle of Wight Council Members' Code of Conduct shall apply to all members of the Board. Likewise, all other relevant Isle of Wight Council policies shall apply to members of the Board.

All Board members must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest that might arise as a result of their position on the Board and complete a register of interests.

Where a conflict is identified, the Board and the Scheme Manager shall manage it by applying the principles contained within the Isle of Wight Council Members Code of Conduct (see Part 5 Section 3).

Where it is deemed impossible to manage a conflict, the Board member may be required by the Administering Authority to stand aside in relation to any specific issue being considered or, if necessary, resign their position on the Board or be removed by the Administering Authority.

### ***Meetings***

#### ***Frequency***

There will be at least four Board meetings a year. Other meetings may be convened by the chairman with due notice as the Board determines.

#### ***Notice***

The Administering Authority shall give reasonable advance notice to all Board members of every meeting of the Board which shall normally be at least 5 clear working days.

The agenda and supporting papers shall be distributed to members of the Board normally at least five clear working days prior to the meeting.

Any member of the Board may request that an item be added to the agenda for consideration, subject to that matter being relevant to the remit of the Board as set out in these terms of reference. Any items considered outside of the remit will be discussed with the chairman of the Board and the requestor notified of the outcome and rationale.

Subject to the requested item being valid, the Administering Authority will schedule the item of business for the next appropriate Board meeting, taking into account items already scheduled and the level of preparation. Note – if the next meeting of the Board is to be held within 28 days of receipt of the request, the item of business is unlikely to be scheduled before the following meeting.

### *Quorum*

The Board has a quorum of three, requiring at least one employer representative and at least one scheme member representative to be present..

### *Holding of meeting*

The Board's meetings will be open to the general public, unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public (see, for example, the Data Protection Act 2018). Meetings may be held either in person or remotely or a hybrid of the two methods at the discretion of the Board.

### *Voting*

No member of the Board shall have a right to vote on any question unless that member is an employer representative or a scheme member representative.

It is expected the Board will as far as possible reach a consensus, but where a deadlock has been reached on any matter under consideration which has been the subject of a tied vote the matter shall be referred to the Pension Fund Committee and/or Administering Authority together with the views of the members on the matter.

### *Minutes*

The Administering Authority shall ensure that a formal record of Board proceedings is maintained, whether in electronic format or in writing.

The draft minutes shall be circulated to all Board members, who will be given 21 days to comment, after which time the draft minutes will be published.

The accuracy of the final minutes shall be agreed at the next suitable meeting of the Board.

### *Publication*

The Board's public papers including agendas and minutes of meetings will be published on the Council's website subject to the rules on access to information and the Data Protection Act 2018.

### **Advisers**

The Board may be supported in its role and responsibilities by the appointment of advisers and shall, subject to any applicable regulation and other legislative provision, consult with such advisers to the Board to help perform its duties.

Any cost associated with the use of advisers to the Board must first be agreed with the Administering Authority.

### ***Powers of the Board***

The Board only has those powers granted to it under statutory provision and so only has a very defined and limited jurisdiction.

The Board has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its statutory functions.

But, for the avoidance of any doubt whatsoever, and subject to 7.4 below, it is for the Administering Authority (and not for the Board) to determine the procedures applicable to the Board, including as to the establishment of sub-committees, formation of joint committees and payment of expenses.

No member of the Board shall have the right to vote on any question unless that member is an employer representative or a scheme member representative (see.5.8 above).

### ***Reporting Duty of the Board***

The Board shall provide an annual report to the Pension Fund Committee. The report shall include information on the business conducted by the Pension Board with any risks or concerns identified and mitigation steps proposed.

The annual report will also be published on the Pension Fund's website.

Any concerns requiring reporting outside the annual process should be raised with the Pension Fund Committee.

### ***Budget and Expenses***

The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Fund.

The Board shall seek the prior approval from the Administering Authority's Section 151 Officer for any expenditure to be made.

The expenses of the Board are to be regarded as part of the costs of administration of the fund held by the Administering Authority.

The Pension Fund may meet reasonable expenses of the Board. Such expenses will be met by the Fund and have regard to the Administering Authority's Members' Allowance Scheme.

But for the avoidance of any doubt, other than the independent chairman, Board members shall not receive an annual allowance of any kind in respect of being a member of the Board.

### ***Accountability***

The Board shall be collectively and individually accountable to the Scheme Manager.

### ***Review of terms of reference***

These terms of reference shall be reviewed on each material change to those parts of the regulations covering local pension boards and at least every four years.

These terms of reference were adopted on 17 November 2021.

NB. The following documents/regulations have been referred to in formulating the Board's terms of reference:

- Local Government Pension Scheme (LGPS) – Guidance on the creation and operation of Local Pension Boards in England and Wales (issued by the Shadow Scheme Advisory Board)
- The Public Service Pensions Act 2013
- The Local Government Pension Scheme Regulations as amended
- Code of Practice No. 14 governance and administration of public service pension schemes (issued by the Pensions Regulator)
- The Local Government Pension Scheme (LGPS) – Questions and Answers on Local Pension Boards (issued by the Shadow Scheme Advisory Board)
- Template Terms of Reference for a Local Pension Board (issued by the Shadow Scheme Advisory Board).

### **Planning Committee (12 members and 1 co-opted non-voting IWALC representative)**

Except those matters that are Executive responsibilities, exercises powers and duties within the corporate policies and strategies of the council in relation to:

- (a) its role as Local Planning Authority in its development management and planning function
- (b) the extraction of minerals, the clearance and reclamation of derelict land, subsequent after-use of sites for waste disposal and restoration of site

The committee takes decisions only where:

- (a) the law or council policy requires the decision to be taken by elected councillors; or
- (b) an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.

The committee comprises 12 elected councillors and 1 co-opted non-voting representative from the Isle of Wight Association of Local Councils. The quorum is four elected councillors – see Part 2 Section 8.

## **7. Additional Rules Applying to Planning, Licensing and Appeals Committees**

### **Written representations**

Written representations received within the published timetable will be summarised in written reports placed before the Regulatory committees or their sub-committees.

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.

### **Site visits**

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. All members of the relevant Regulatory committee or sub-committee will be notified. Planning site visits normally take place on the Friday prior to the Planning Committee meeting (except where an alternative date is agreed between the chairman and the Strategic Manager of Planning & Infrastructure Delivery).

Site visits will be organised when deemed necessary, for licensing matters by the Strategic Manager of Regulatory & Community Safety Services and for planning matters by the Strategic Manager of Planning & Infrastructure Delivery, in consultation with the relevant committee chairman.

The applicant (or their agent) shall be notified in writing of a site visit and asked to notify the Democratic Services officer at the earliest opportunity if they have any objections to the proposed visit.

Attendance at a site visit shall be limited to members of the relevant Regulatory committee or sub-committee, the local councillor (if not a member of the committee/sub-committee), relevant council officers and the applicant/agent (where appropriate).

Only those members attending a site visit will be able to consider and vote on the matter when the Regulatory committee or sub-committee formally meets to consider the matter.

Site visits are not open to the public and press and access to any site is subject to permission being granted by the landowner or their agent.

No debate or decision regarding the application shall take place at a site visit. The relevant Strategic Manager (or their deputy) will summarise the issues that have led to a site visit and draw attention to any salient points, but there will be no discussion on the merits of an application during a site visit, although members may ask questions and request clarification on individual points.

Members will follow the chairman of the Regulatory committee or sub-committee, accompanied by the relevant staff member, onto the site. Members should form and continue to form a single group. The applicant/ agent 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 relevant Strategic Manager (or their deputy).

The application will be determined at a meeting that will take place at the earliest opportunity following a site visit. See also the Code of Practice for Members and Officers Dealing with Planning Matters (Part 5 Section 11).

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

All applicants, agents and relevant parties who have made a representation shall be sent copies of the agenda and relevant papers.

Anyone wishing to address the Licensing Committee or its sub-committee in respect of an application or other licensing matter can be legally represented.

Consideration of applications or licensing matters shall be in accordance with statutory procedures or common law rules of natural justice, as approved by the Monitoring Officer.

The Licensing Committee or its sub-committee (when acting as the statutory Licensing Committee or sub-committee) 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 Access to Information rules (see Part 5 Section 2).

All persons, except for the Licensing Committee or sub-committee councillors, clerk and Legal Services officer, 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 committee or sub-committee's decision and the reasons for this.

## 8. Joint Arrangements

The current delegations to, or functions exercised by, Executive or Non-Executive joint committees, joint scrutiny committees, boards or other bodies are set out below.

### Health and Wellbeing Board (HWB)

Health and wellbeing encompasses public health and NHS services, adult social care, children's services and the impact of housing, community safety, economic development and the environment.

The purpose of the HWB is to build strong and effective partnerships, which improve the commissioning and delivery of services by the NHS and local government, leading to improved health and wellbeing for local people.

The HWB leads and advises on work to improve the health and wellbeing of the people of the Isle of Wight. This is achieved through joined up commissioning across the NHS, social care, public health and other services directly related to health and wellbeing in order to:

- (a) secure better health and wellbeing outcomes on the Island
- (b) reduce health inequalities and
- (c) ensure better quality of care for all patients and care users

The HWB has a primary responsibility to make sure that health care services paid for by public monies are provided in a cost-effective manner.

The HWB also aims to increase the role of elected representatives in health and provide a key forum for public accountability for NHS, public health, social care and other commissioned services that relate to people's health and wellbeing.

In accordance with the Health and Social Care Act 2012, the HWB is constituted as a formal committee of the council under s.102 of the Local Government Act 1972, and answerable to its scrutiny functions with the following terms of reference:

- (a) Encourages all those who arrange for the provision of any health or social care services to work closer together for the purpose of advancing the health and wellbeing of the people of the Isle of Wight.
- (b) Receives and adopts a Health and Well-Being Board Strategy.
- (c) Commissions and endorses a Joint Strategic Needs Assessment (JSNA) for the Isle of Wight, having regard to any guidance issued by the Secretary of State and ensuring the involvement of the Local Healthwatch organisation, the people who live and work on the Isle of Wight and subject to final approval by relevant partners, if required.
- (d) Commissions and endorses a Joint Health and Wellbeing Strategy (JHWS) to meet the health and social care needs identified in the JSNA, subject to final approval by relevant partners, if required.
- (e) Commissions and endorses the Pharmaceutical Needs Assessment, subject to final approval by relevant partners, if required.
- (f) Receives the reports of both the Safeguarding Children Partnership Board (SCPB) and Safeguarding Adults Board (SAB), including their annual reports.

The membership of the HWB is as follows:

- (a) Executive Leader - Chairman

- (b) Cabinet member for Children's Services, Education and Lifelong Skills
- (c) Cabinet member for Adult Social Care and Public Health
- (d) Cabinet member for Community Protection, Regulatory Services and Waste
- (e) Council Chief Executive
- (f) Council Director of Children's Services
- (g) Council Director of Adult Services
- (h) Council Director of Public Health
- (i) Council Director of Regeneration
- (j) Council Director of Neighbourhoods
- (k) Clinical Chairman of the Isle of Wight Clinical Commissioning Group (CCG) – Vice-Chairman
- (l) Managing Director of the Isle of Wight Clinical Commissioning Group (CCG)
- (m) Area Director representative for the Wessex Area Team of NHS England
- (n) Chief Executive of Isle of Wight NHS Trust
- (o) Chief Constable representative for Hampshire Police
- (p) Police and Crime Commissioner representative for Hampshire and the Isle of Wight
- (q) Healthwatch Isle of Wight representative
- (r) Isle of Wight Association of Local Councils (IWALC) representative
- (s) Chairman of the Isle of Wight Voluntary Sector Forum

The quorum is at least two Cabinet members, one statutory officer of the council, a representative of the CCG and four other members of the Board or their representatives present.

Voting is by show of hands. A simple majority prevails and in the event of a tied vote the chairman shall have a second or casting vote. The recording of votes and the right for an individual vote to be recorded will follow the council's Constitution procedure rules.

The HWB meets four times a year with additional meetings arranged in agreement with the Chairman, as required. The chairman determines, in consultation with the clerk, the agenda for each meeting.

All meetings of the HWB are held in public unless there are grounds for excluding the press and public, as set out in the Access to Information rules (see Part 5 Section 2) or in accordance with legislation. Members of the public have the right to ask questions at each meeting.

The HWB is supported by sub-groups, if needed. Both the SCPB and SAB can bring issues and concerns to the attention of the HWB and, in turn, the HWB needs to be confident that these fora are operating effectively to discharge their responsibilities.

### **Safeguarding Children Partnership Board (SCPB)**

The Isle of Wight Safeguarding Children Partnership Board is established in accordance with the Children and Social Work Act 2017 and Working Together to Safeguard Children 2018 statutory guidance. It provides arrangements under which the safeguarding partners and relevant agencies work together to coordinate their services, identify and respond to the needs of children in Isle of Wight, commission and publish local child safeguarding practice reviews and provide scrutiny to ensure the effectiveness of the arrangements.

The three safeguarding partners in relation to a local authority area are defined under the Children Act 2004 (as amended by the Children and Social Work Act 2017) as:

- (a) the Local Authority



- (b) a Clinical Commissioning Group (CCG) for an area any part of which falls within the local authority area
- (c) the Chief Officer of Police for an area any part of which falls within the local authority area

The SCPB sets the performance, policy and strategic priorities for partnership. It is responsible for ensuring that statutory requirements are met and it sets the priorities for its business plan according to local issues and demands with evidence of clear improvement priorities to improve outcomes.

The SCPB objectives are:

- (a) To co-ordinate the work of statutory partners in helping, protecting and caring for children on the Isle of Wight and ensuring there are mechanisms in place to monitor the effectiveness of these arrangements.
- (b) To regularly monitor and evaluate multi-agency frontline practice to safeguard children to identify where improvement is required in the quality of practice and services, that children and families receive, including early help.
- (c) To hold partners to account for their contribution to the safety and protection of children, including children living in the area away from their home authority.

The SCPB responsibilities are:

- (a) Overseeing the governance arrangements of the partnership to ensure it complies with its statutory responsibilities in accordance with the Children Act 2004 and as outlined in Working Together 2018.
- (b) Identifying emerging issues to inform priority-setting and raising awareness of emerging issues across the partnership.
- (c) Publishing an annual business plan with clear priorities that will improve multi-agency professional practice with children and families.
- (d) Producing an annual report that provides a rigorous and transparent assessment of the performance and effectiveness of local services, identifies areas of weakness and their causes, and evaluates and challenges the action being taken. This report will include learning from audits and scrutiny activity, local learning reviews and other partnership functions where appropriate.
- (e) Ensuring there is a local Learning and Improvement Framework in place and opportunities for learning are effective and properly engage all partners.
- (f) Considering regular reports from the Learning Inquiry Group and ensuring recommendations are acted upon and lessons learnt embedded into improved practice.
- (g) Agreeing and reviewing the local strategy and action plan in response to children missing and children at risk of sexual exploitation
- (h) Using its scrutiny role and statutory powers to influence the priority setting across other strategic partnerships, including the Health and Wellbeing Board, Safeguarding Adults Board, Local Family Justice Board, Strategic MAPPA Board, Corporate Parenting Board and Community Safety Partnerships.
- (i) Ensuring high quality policies and procedures are in place (as required by Working Together 2018) and that they are monitored and evaluated for their effectiveness and impact, and revised where improvements can be made.
- (j) Scrutinising and challenging the arrangements agencies are required to have in place under s.11 of the Children Act 2004.

- (k) Ensuring high-quality multi-agency training is available and evaluating its effectiveness and impact on improving front-line practice and the experiences of children, families and carers.
- (l) Facilitating communication between all the safeguarding partners and relevant agencies, strengthening working relationships between organisations.

The SCPB reports annually to Isle of Wight Council's Policy and Scrutiny Committee for Children's Services, Education and Skills, the Health and Wellbeing Board, the Children's Trust, the Hampshire Constabulary Child Centred Policing Board and the HIOW CCG Partnership Quality, Finance and Performance Committee.

The safeguarding partners and the following relevant agencies are members of the SCPB. The partnership meetings will be led by the Independent Chair:

- (a) Designated Doctor
- (b) Designated Nurse
- (c) Hampshire and Isle of Wight Community Rehabilitation Company
- (d) Hampshire Constabulary
- (e) IOW Fire & Rescue Service
- (f) IOW Safeguarding Adults Board
- (g) Isle of Wight Adult Services
- (h) Isle of Wight Children's Services
- (i) Isle of Wight Clinical Commissioning Group
- (j) Isle of Wight Education Services
- (k) Isle of Wight NHS Trust
- (l) National Probation Service
- (m) NHS England
- (n) Portsmouth Diocese
- (o) Primary Schools
- (p) Public Health
- (q) Regulatory & Community Safety Service
- (r) Secondary School
- (s) Special Schools
- (t) Voluntary Sector
- (u) Youth Offending Service

The Lead Councillor for Children's Services is a participant observer.

Other organisations are invited by the SCPB to be members having regard to s.13(4) of the Children Act 2004, as amended (Working Together 2018). The SCPB will also, where practicable, include up to two lay members who are representative of persons living on the Isle of Wight or have links to the Isle of Wight. Attendees are expected to have a good understanding of children's safeguarding and be of sufficient seniority to be able to:

- (a) Speak for their organisation with authority
- (b) Commit their organisation on policy and practice matters; and
- (c) Hold their own organisation to account and hold others to account

The SCPB meets at least four times a year. The quorum is half of its members present, including the Independent Chair and representatives from each of the three safeguarding partners.

## **Safeguarding Adults Board (SAB)**

The SAB performs a similar function to the SCPB in relation to vulnerable adults. Its overarching purpose is to help and safeguard adults with care and support needs by:

- (a) assuring itself that local safeguarding arrangements are in place as defined by the Care Act 2014 and statutory guidance
- (b) assuring itself that safeguarding practice is person-centred and outcome-focused
- (c) working collaboratively to prevent abuse and neglect where possible
- (d) ensuring agencies and individuals give timely and proportionate responses when abuse or neglect have occurred
- (e) assuring itself that safeguarding practice is continuously improving and enhancing the quality of life of adults in its area.

The SAB leads adult safeguarding arrangements across the Island and oversees and coordinates the effectiveness of the safeguarding work of its member and partner agencies. It is concerned with issues that contribute to the wellbeing of the community and the prevention of abuse and neglect, such as:

- (a) the safety of people who use services in local health settings, including mental health
- (b) the safety of adults with care and support needs living in social housing
- (c) effective interventions with adults who self-neglect, for whatever reason
- (d) the quality of local care and support services
- (e) the effectiveness of prisons in safeguarding offenders
- (f) making connections between adult safeguarding and domestic abuse

The SAB has three core duties:

- (a) to develop and publish a strategic plan setting out how it will meet its objectives and how its member and partner agencies will contribute
- (b) to publish an annual report detailing how effective its work has been
- (c) to commission safeguarding adults reviews (SARs) for any cases that meet the criteria for these

SAB membership comprises:

- (a) Isle of Wight Council Adult Social Care – Statutory Lead
- (b) Hampshire Police – Statutory Lead
- (c) Clinical Commissioning Group – Statutory Lead
- (d) Cabinet member for Adult Social Care, Public Health and Housing Needs
- (e) H.M. Prisons
- (f) Healthwatch
- (g) Isle of Wight National Health Service Trust
- (h) Probation Service
- (i) Wessex National Health Service England
- (j) Public Health
- (k) A residential care home representative
- (l) Southern Housing Association
- (m) Fire and Rescue Service
- (n) Safeguarding Children Partnership Board
- (o) Age UK or an alternative voluntary sector representative
- (p) Community Rehabilitation Company

- (q) Care UK
- (r) Care Quality Commission
- (s) Community Safety Partnership Lead
- (t) Isle of Wight Council Housing Department

### **Corporate Parenting Board**

The Corporate Parenting Board is a multi-agency advisory panel to the Full Council and to the Cabinet Member for Children's Services, Education and Lifelong Skills. The Board confirms its joint commitment to improving services and outcomes for children and care leavers for whom the council is corporate parent.

The Board's role is to lead on ensuring the corporate parenting responsibilities of the multi-agency partnership are being met. Section 22 of the Children Act 1989 sets out the general duty of the council in relation to children looked after by it; to safeguard and promote the welfare of these children, ensuring effective, individualised support and access to services. This duty is inclusive of both children and young people with care orders and those provided with accommodation. The Children and Social Work Act 2017 defined the responsibility of corporate parents to ensure, as far as possible, secure, nurturing and positive experiences for looked-after children and young people.

The Corporate Parenting Board is accountable to:

- (a) The Cabinet Member for Children's Services, Education and Lifelong Skills and to the Full Council
- (b) Looked after children, care leavers and their carers or guardians
- (c) Each respective member on the Board and the relevant senior management team of each agency represented

The roles and responsibilities of the Corporate Parenting Board are to:

- (a) Develop expertise about services for and issues affecting children and young people, both in care and leaving care
- (b) Enable elected councillors to fulfil their role as corporate parenting champions and advocates for Isle of Wight children who are looked after, and those leaving local authority care
- (c) Provide multi-agency strategic direction for services and projects working to achieve good outcomes for both children in local authority and leaving care
- (d) Actively raise the awareness of other elected councillors, the Cabinet and the Full Council to the whole council's corporate parenting responsibilities towards the Isle of Wight's looked after children and care leavers
- (e) Oversee and challenge progress and performance against the objectives within the Isle of Wight's Corporate Parenting Strategy

The terms of reference of the Corporate Parenting Board are to:

- (a) Secure real and sustained improvements in the life chances of Looked After Children, Children in Need, care leavers and youth offending children, and to work within an annual programme to that end
- (b) Develop, monitor and review a corporate parenting strategy, work plan and training programme for all members to receive regular training in their corporate parenting

- responsibilities. Board members should have specific training, particularly before the consideration of important child care issues at Board meetings
- (c) Ensure the life chances of Looked After Children, Children in Need and care leavers are maximised in terms of health, educational attainment, and access to training and employment, to aid the transition to a secure and productive adulthood
  - (d) Recommend ways in which more integrated services can be developed across all council directorates, schools and other stakeholders, to lead towards better outcomes for Looked After Children, Children in Need and care leavers
  - (e) Ensure performance monitoring systems are in place and regularly review performance data to ensure sustained performance improvements in outcomes for Looked After Children, Children in Need and care leavers
  - (f) To receive inspection and annual reports, including from the Independent Reviewing Lead Officer and the Virtual School Head, including:
    - (i) areas of good practice
    - (ii) areas for development
    - (iii) commentary on the participation of children and their parents
    - (iv) the educational achievement of looked-after children
    - (v) whether any resource issues are putting the delivery of a good service to all looked-after children at risk
  - (g) To report to the Cabinet and subsequently to Full Council annually
  - (h) To make recommendations to the Cabinet Member for Children's Services, Education and Lifelong Skills as the Lead Councillor for Children's Services
  - (i) To report to the Policy and Scrutiny Committee for Children's Services, Education and Lifelong Skills after each meeting
  - (j) To develop and undertake a programme of consultation, listening and engagement events with, as well as visits to services providing support and advice to, Looked after Children, Children in Need and care leavers
  - (k) Ensure Looked After Children, Children in Need and care leavers play an integral role in service planning and design, and that their views are regularly sought and acted upon through the Hearing Young People's Experience (HYPE) group, including:
    - (i) those with special educational needs (SEN) and learning difficulties or disabilities (LDD)
    - (ii) unaccompanied asylum-seeking children in the care of the Isle of Wight Council and Isle of Wight looked after children placed in other local authority areas
  - (l) Drive forward improvements for children in care and care leavers, especially those from the HYPE group
  - (m) Ensure that the needs of the HYPE group are appropriately considered and incorporated into key plans, policies and strategies throughout the council
  - (n) Ensure sufficient resources are made available for the HYPE group to directly engage with all children in care and deliver agreed projects on behalf of the council and function as a working group
  - (o) Raise awareness of the council's corporate parenting responsibilities among elected councillors and officers by promoting the role of elected councillors as corporate parents and the council as a large corporate family with key responsibilities
  - (p) Ensure councillors are regularly updated on the issues affecting CiC and CL and how the council is held to account to respond
  - (q) Provide a forum for elected councillors to oversee progress of all Looked After Children through the implementation of the Children in Care Strategy

- (r) Scrutinise and monitor outcomes for children in care and care leavers, and encourage all partners to work in an integrated manner, in the best interests of looked after children and care leavers and hold partners to account for their role in delivery of services
- (s) Raise the profile of the needs of children in care and care leavers through a range of actions and events, to recognise their achievement and contribution
- (t) Ensure that children and young people are clear about what they can expect from the Isle of Wight Council as corporate parents, including access to somewhere to call home, education, employment and training
- (u) Ensure that the local offer of ongoing support for care leavers continues to meet their needs
- (v) Ensure staff working with children in care and care leavers have appropriate support and training
- (w) Oversee the Virtual School for the Isle of Wight

#### Membership:

- (a) Cabinet Member for Children's Services, Education and Skills (Chair)
- (b) At least one representative from the HYPE group, selected to represent the group at the regular HYPE meetings
- (c) Elected councillors, including a member of the Policy and Scrutiny Committee for Children's Services, Education and Skills, at least one minority group councillor and one from either the Fostering or Adoption Panel
- (d) At least one Isle of Wight Council Foster carers, identified through foster carers support network.
- (e) Children and Families Branch- Children's Rights Officer
- (f) Head of Strategy and Operations Children and Family Branch
- (g) Service Manager-Children in care
- (h) Health - LAC Designated Dr and Nurse.
- (i) CCG-Lead Officer with responsibility for children's health commissioning.
- (j) Education -Virtual Head
- (k) Adult Social Care – Lead Officer from Transitions Team
- (l) Housing Services Lead Officer

The quorum of the Board is at least three persons, including the Chairman or Vice Chairman, Head of Strategy and Operations or a Children and Families Service Manager, the Children's Rights Officer or a representative from HYPE.

The Board will meet at least quarterly. Agendas and papers will be distributed at least one week prior to the meeting.

#### **Local Care Board<sup>1</sup>**

The Local Care Board (LCB) is made up of senior council officers, the Isle of Wight Clinical Commissioning Group and the Isle of Wight NHS Trust, and supported by the Cabinet member for Adult Social Care and Public Health.

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<sup>1</sup> To be replaced by Integrated Care Partnership? <https://www.iow.gov.uk/Meetings/committees/cabinet/9-1-20/PAPER%20C%20-%20Local%20Care%20Board%20Report.pdf>

The group brings together commissioners and providers of care on the Island with responsibility to transform the Local Care System and unite efforts to improve the overall quality of health and social care on the Isle of Wight.

#### Principles:

- (a) To put the interests of patients, communities and the taxpayer before the interests of individual organisations, and focus on these together to deliver the Local Care System Vision
- (b) To jointly commission and develop new care models that break down the boundaries between different providers and make the best use of the Island pound
- (c) Make full use of Pooled Budgets, the Better Care Fund and innovative commissioning frameworks to facilitate long term planning and improved outcomes
- (d) Have a focus on prevention and population health management
- (e) Ensure people with on-going care needs receive more coordinated care, with more services at home and in community settings
- (f) Provide high quality care that is integrated with primary, community, mental health and social care
- (g) Align with the vision and objectives of the Hampshire and Isle of Wight Sustainability Transformation Programme

#### Terms of reference:

- (a) To transform the Local Care System and drive the delivery of best outcomes for those we serve
- (b) To improve the physical, mental health and wellbeing of Isle of Wight residents through the integrated commissioning and provision of adult social care, health, children's and public health services
- (c) The development and delivery of a Local Care Plan (LCP) to transform care on the Isle of Wight within available resources
- (d) To ensure evidence-based and outcomes focussed approach to decision making and planning.
- (e) To establish and monitor the key performance indicators that will identify the successful implementation of the LCP and provide a forum for the management and resolution of key system issues
- (f) To identify and secure the resources necessary to support the LCP
- (g) To enable a system-wide response to any intervention and improvement programme introduced by or imposed on any partner organisation that has a system wide impact
- (h) To ensure the LCP is consistent with and contributes to the aspirations of the HIOW Sustainability Transformation Plan (STP) and that the needs of the Isle of Wight are properly identified and reflected

#### Membership:

- (a) Clinical Chair of the Isle of Wight Clinical Commissioning Group
- (b) Accountable Officer Isle of Wight Clinical Commissioning Group
- (c) Managing Director, Isle of Wight Clinical Commissioning Group
- (d) Chief Executive, Isle of Wight Council
- (e) Director of Adult Social Services, Isle of Wight Council
- (f) Cabinet Member for Adult Social Care, Public Health and Housing Needs
- (g) Chief Executive, Isle of Wight NHS Trust

- (h) Medical Director, Isle of Wight NHS Trust
- (i) Chairman, Isle of Wight NHS Trust
- (j) Chair of the Stakeholder Reference Group
- (k) Chair of GP Federation (One Wight Health)

The Board has developed a [Local Care Plan](#) which has been agreed with all partners and by the Health and Wellbeing Board. The plan identifies and prioritises changes required to improve care across the Island, building on the Island's shared vision for person-centred care, delivered closer to home.

The Board meets on a monthly basis and is supported by a number of key system-wide groups as set out in the governance structure within the plan above.

### **Hampshire and Isle of Wight Fire and Rescue Authority**

Pursuant to [The Hampshire And Isle Of Wight Fire And Rescue Authority \(Combination Scheme\) Order 2020](#), a single fire and rescue authority was formed for the combined area of the Hampshire Fire and Rescue Authority and the Isle of Wight Fire and Rescue Authority, comprising the areas of Hampshire County Council, Isle of Wight Council, Portsmouth City Council and Southampton City Council. The Scheme came into force on 1 April 2020 for the purpose of doing anything necessary to bring the Scheme fully into operation on 1 April 2021. It is now established as a separate legal entity.

### **Police and Crime Panel**

At its meeting on [16 May 2012](#), Full Council endorsed the establishment of a Police and Crime Panel (PCP) as a joint committee under the the Police Reform and Social Responsibility Act 2011, in conjunction with 14 other local authorities within the Hampshire Police Area. It is administered by [Hampshire County Council](#) and includes the 11 district councils in Hampshire, and the unitary authorities for Portsmouth and Southampton).

The PCP is independent of the Office of the Police and Crime Commissioner (PCC) and oversees the work of the PCC by:

- (a) reviewing PCC proposals for the amount of council tax local people pay towards policing. It has the power to veto these proposals if it considers the amount is inappropriate
- (b) considering the PCC's Police and Crime Plan and Annual Report
- (c) considering PCC proposals for the appointment of a new Chief Constable, with the power to veto
- (d) investigating complaints about the PCC

The PCP's [procedure rules](#) and its governance [arrangements](#) are made under paragraphs 24 and 25 of the Police Reform and Social Responsibility Act 2011, [Schedule 6](#).

Full Council appoints one elected councillor to act as its representative on the PCP and one elected councillor as an authorised substitute.

### **Standing Advisory Council for Religious Education (SACRE)**

The law states that religious education (RE) must be taught in all schools. However, RE is not part of the National Curriculum, it is a local responsibility.



Every Local Education Authority (LEA) is required by law to have a SACRE. Its origins go back to the Education Act of 1944, but the Education Reform Act 1988 and the Education Act 1996 strengthened its place in an LEA. The responsibilities of SACRE are to:

- (a) provide advice to the LEA on all aspects of its provision for RE in its schools (this does not include Voluntary Aided Schools), including methods of teaching, the choice of materials, and the provision of training for teachers
- (b) advise the LEA on its Agreed Syllabus for RE and require it to review it
- (c) provide advice to the LEA on Collective Worship in its schools (this does not include Voluntary Aided or Voluntary Controlled Schools)
- (d) consider requests from head teachers to hold Collective Worship that is not of a broadly Christian character
- (e) consider complaints assigned to it by the LEA concerning collective worship or RE
- (f) publish an annual report on its proceedings and those of its representative groups; to specify any matters on which the SACRE has given advice to the LEA and the reasons for offering the advice

SACRE is required by law to be made up of four groups in order to bring a wide range of interests and talents to its work and to reflect local communities:

- (a) Group A: faiths and beliefs representative of the local communities, including Christian denominations other than Church of England
- (b) Group B: representatives of the Church of England
- (c) Group C: representatives of the teaching profession
- (d) Group D: representatives from the LEA, including councillors and RE advisors

Full Council is responsible for appointing all members of SACRE.

Meetings are held three times a year.

[Find out more about SACRE meetings, members and contact details](#)

## **Economic Development Board**

By virtue of a Cabinet decision dated 7 July 2014, and as part of a Memorandum of Understanding with the Isle of Wight Chamber of Commerce, Trade and Industry, the Economic Development Board was established as an advisory body to Cabinet to develop and agree a vision for the economic future of the Island and a strategy for its delivery, and also to advise the work of the partners.

The purpose of the Board is to:

- (a) enable local partners to agree shared economic priorities for the Island and to ensure the most effective use of the increasingly limited resources and support services available
- (b) develop, agree and review an ongoing vision for the economic future of the Island as part of a wider regeneration strategy
- (c) provide input to and act on feedback from other Island or regional partnerships addressing issues such as education and skills, infrastructure and housing
- (d) oversee and monitor the effective development and deployment of an Island Business support programme
- (e) inform and monitor the development and delivery of a local economic strategy and, where appropriate, ensure consistency with the Solent Strategic Economic Strategy and relevant UK government policy, such as the Industrial strategy

- (f) initiate activities to improve the overall economic wellbeing of the Isle of Wight in line with the economic strategy
- (g) work together to influence the Solent Local Enterprise Partnership (SLEP) and ensure that the needs and aspirations of the Isle of Wight are clearly understood
- (h) assist in establishing a clear communications strategy to ensure consistent messaging about the Island's economy and to generate investment interest in the Isle of Wight
- (i) facilitate widest possible engagement with the business community of the Isle of Wight and act on the feedback presented by bodies such as the Chamber of Commerce, Federation of Small Business and the IOW Business Reference group
- (j) inform, direct and lobby plans and objectives of any agency which impacts on the Isle of Wight in all matters in relation to the Island's economy

Members of the Board shall be appointed by the Leader and consist of:

- (a) Three representatives from the Isle of Wight Council
- (b) Three representatives from the Isle of Wight Chamber of Commerce
- (c) Three representatives from the private sector
- (d) A representative from the Isle of Wight College
- (e) A representative from Visit Isle of Wight
- (f) A representative from the Federation of Small Businesses

The chairman of the Board will be a representative from the private sector, nominated and elected by a simple majority of the members of the Board, to serve for a period 12 months.

[Find out more about the meetings and members of Economic Development Board.](#)

### **ACCESS Pool Joint Committee**

In exercise of its powers under section 102(1)(b) of the Local Government Act 1972 and the LGPS Investment Regulations, Full Council [agreed](#) to form a joint committee with 10 other local authorities, to run and operate collective investment vehicles and to pool their respective investments with effect from 12 July 2017.

Full Council is responsible for appointing as its representative on the Joint Committee a member of the Pension Fund Committee plus a named substitute from the same committee.

Any elected councillor who is not a member of the Joint Committee may, at the invitation of the chairman, speak at a meeting of the Joint Committee.

The Joint Committee meets at least four times each year. Meetings are open to members of the public unless the Joint Committee determines that it is necessary to exclude them in accordance with Part VA of the Local Government Act 1972 or because of a disturbance.

## 9. Scrutiny and the Call-In Procedure

### **Corporate Scrutiny Committee (9 members, 1 voting co-opted representative from IWALC and 1 non-voting co-opted representative from HALC )**

Responsible for Scrutiny functions in respect of decisions and activities within the remit of the council, the Cabinet, Cabinet members, officers, and any functions not otherwise expressly delegated to another Scrutiny committee, including:

- (a) Assist Cabinet in the development of:
  - (i) the Budget and Policy Framework by in depth analysis of policy issues
  - (ii) future policy to enable the Corporate Plan to be delivered
- (b) Review and scrutinise the performance of the council as a whole in relation to the outcomes, policy objectives, performance targets and key activities described in the Corporate Plan
- (c) Recommend to other Scrutiny committees subjects for scrutiny and consider the implications for the council arising from any completed review
- (d) Co-ordinate the work undertaken by the Scrutiny committees and any Task and Finish Groups
- (e) Responsible for, and operate, the system of Call-In to review Cabinet decisions relevant to the functions of the committee (see below)
- (f) Perform Scrutiny functions relating to crime and disorder and flooding
- (g) Question Cabinet members and officers about their decisions and performance in comparison with service plans and targets, or in relation to particular decisions, initiatives or projects
- (h) Require relevant Cabinet members to attend and report on key issues on the Forward Plan
- (i) Review budget and performance management across the council, including progress with relevant action plans
- (j) Review policy development, implementation and consistency across the council
- (k) Make recommendations to the Cabinet and Full Council arising from the outcome of the scrutiny process
- (l) Review and scrutinise the performance of other public bodies, service providers and stakeholders and invite them to report to or address the committee in support of its scrutiny activities
- (m) Deal with petitions as outlined in the council's Petition Scheme (see Part 4C)
- (n) Consider requests from any elected or co-opted member for an item relevant to the functions of the committee to be considered at the next available meeting
- (o) Consider a Councillor Call for Action on matters relevant to the committee

The committee comprises nine members of the council. No Cabinet member may be a member of the committee. In addition, the committee will include one voting co-opted member nominated by the Isle of Wight Association of Local Councils (IWALC), and one non-voting co-opted member nominated by the Hampshire Association of Local Councils (HALC), for a period to coincide with the scheduled council elections.

The Isle of Wight Youth MP may attend, and speak at, any meeting of the Corporate Scrutiny Committee in a non-voting consultative capacity.

The Isle of Wight Youth Council may nominate two of its members (in a non-voting capacity to be a point of consultation between the committee and the Youth Council) to attend and speak at any meeting of the Corporate Scrutiny Committee.

Meetings are scheduled on a minimum of nine occasions per year to take place prior to Cabinet meetings. The quorum for the committee is four elected councillors.

### **Chairman of the Corporate Scrutiny Committee**

The chairman of the Corporate Scrutiny Committee is appointed by Full Council. They are responsible for co-ordinating the activities of the Scrutiny committees to ensure effective scrutiny of budget and policy matters and effective and efficient use of resources and positive outcomes, including:

- (a) Working with the chairmen and vice chairmen of the committees and senior officers to recommend the activities and the work programme of the committees
- (b) Commenting on the abridging or disapplication of the Call-In process where decisions are urgent or not on the Forward Plan and ensuring that these instances are reported to the committee
- (c) Presenting reports to meetings of Full Council and the Cabinet
- (d) Fostering and maintaining a disciplined approach and encouraging effective engagement by all members in the Scrutiny process
- (e) Ensuring the committees contribute to the effective decision-making process of the council
- (f) Encouraging the involvement of interested parties, stakeholders and partners
- (g) Providing leadership, ensuring that Scrutiny is member-led
- (h) Attending Cabinet meetings, as necessary

### **Policy and Scrutiny Committee for Children's Services, Education and Skills (7 members and 4 statutory education co-optees)**

Responsible for scrutiny of the portfolio of the Cabinet member for Children's Services, Education and Skills.

Assists Cabinet in the development and implementation of key plans, policies and activities set out in the Corporate Plan relating to the delivery of relevant services, including:

- (a) Children's Services (including safeguarding)
- (b) Early Help
- (c) Corporate Parenting
- (d) Education
- (e) Special Educational Needs and/or Disabilities
- (f) Adult Learning
- (g) Apprenticeships

No Cabinet member may be a member of this committee. The membership includes 4 statutory education co-optees (representatives from two dioceses and two parent governor representatives) who have a vote on any education matters.

### **Policy and Scrutiny Committee for Health and Social Care (7 members)**

Responsible for scrutiny of the portfolios of the Cabinet members for Adult Social Care, Public Health and Housing Needs; and Community Safety and Public Protection.

Assists Cabinet in the development and implementation of key plans, policies and activities set out in the Corporate Plan relating to the delivery of relevant services, including:

- (a) Statutory health scrutiny, including the power of referral to the Secretary of State.
- (b) Adult social care (including safeguarding)
- (c) Health and social care Integration
- (d) All health services commissioned or delivered for the benefit of island residents
- (e) Public health
- (f) Health and Wellbeing Board and the delivery of the Health and Wellbeing Strategy and Joint Strategic Needs Assessment
- (g) Future local delivery model and strategic commissioning

No Cabinet member may be a member of this committee.

### **Policy and Scrutiny Committee for Neighbourhoods and Regeneration (7 members)**

Responsible for scrutiny of the portfolios of the Cabinet members for Regeneration and Business Development; Planning and Housing; and Environment and Heritage.

Assists Cabinet in the development and implementation of key plans, policies and activities set out in the Corporate Plan relating to the delivery of relevant services, including:

- (a) Waste and recycling
- (b) Highways and transportation
- (c) Regeneration
- (d) Economic growth
- (e) Housing
- (f) Local Enterprise Partnership
- (g) Countryside and environment
- (h) Planning
- (i) Heritage

No Cabinet member may be a member of this committee.

### **Terms of reference**

The terms of reference for these three scrutiny committees includes:

- (a) Recommend to Cabinet existing policies to be reviewed or new policies to be developed, to ensure improved service delivery and effective and efficient implementation of the Corporate Plan
- (b) Assist Cabinet in the development of the council's Budget and Policy Framework by in-depth analysis of policy issues
- (c) Responsible for, and operate, the system of Call-In to review Cabinet decisions relevant to the functions of each committee (see below)
- (d) Engage with partners and stakeholders on the development and review of relevant policies
- (e) Encourage and enhance public participation in policy development and service delivery
- (f) Require Cabinet members to attend and report on key issues on the Forward Plan

- (g) Scrutinise decisions made by, and performance of, the Cabinet, Cabinet members and officers in relation to the delivery of the budget, policy objectives, activities, outcomes and performance areas described in the Corporate Plan
- (h) Question members of the Cabinet and officers about their decisions and performance, in comparison with service plans and targets, or in relation to particular decisions, initiatives or projects
- (i) Make recommendations to the Cabinet and/or Full Council arising from the outcome of the scrutiny process
- (j) Review and scrutinise the performance of other public bodies and invite them to report to or address the committee
- (k) Question (with consent) and/or invite local people and organisations to provide evidence to the committee in support of its scrutiny activities
- (l) Consider requests from any elected or co-opted member for an item relevant to the functions of the committees to be considered at the next available meeting
- (m) Consider a Councillor Call for Action on matters relevant to the committees

Each committee comprises seven members of the council. No Cabinet member will be a member of the committees. The chairman of each committee is appointed by Full Council.

In addition, four statutory education co-optees (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) will have a vote on any education matters on the Policy and Scrutiny Committee for Children's Services, Education and Skills.

Meetings will be scheduled quarterly and other meetings may be arranged in consultation with the chairman of the relevant scrutiny committee. The quorum for each committee is four elected councillors.

### **Councillor Call for Action**

The Councillor Call for Action (CCfA) enables any member of the council to bring matters of community concern (including crime and disorder issues) within their division to the attention of the council via the Scrutiny process. It is intended to enhance the council's Scrutiny arrangements and provide a formal mechanism to enable elected councillors to seek positive outcomes for the citizens they represent, provided all other means of resolution have been exhausted.

A CCfA will be included on a relevant Scrutiny committee agenda if the chairman, in consultation with the Monitoring Officer, is satisfied that:

- (a) The member has made all reasonable efforts to resolve the matter via liaison with council officers and/or relevant partner agencies; and
- (b) The issue of concern relates to the discharge of a council function (including where this is undertaken with partners and other service providers); and
- (c) The issue of concern has a demonstrable impact on all or part of the member's division; and
- (d) The CCfA does not relate to:
  - (i) individual complaints concerning personal grievances or commercial issues, for which the council's complaints procedure should be followed;
  - (ii) matters that have a statutory appeals process, e.g. planning and licensing applications, council tax queries, housing benefits complaints, issues under dispute in a court of law, etc;

- (iii) matters where there is a statutory right of review or appeal (not including the right to complain to the Ombudsman), e.g. a matter relating to a housing benefit appeal;
- (iv) matters that are vexatious, discriminatory or unreasonable;
- (v) matters of wider council policy, i.e. if an issue affects more than one division it may be appropriate to refer it to the Corporate Scrutiny Committee for consideration of its wider strategic or policy implications, rather than focusing on one particular division;
- (vi) questioning Cabinet decisions that have been taken but not yet implemented, for which the Call-In procedure may be used.

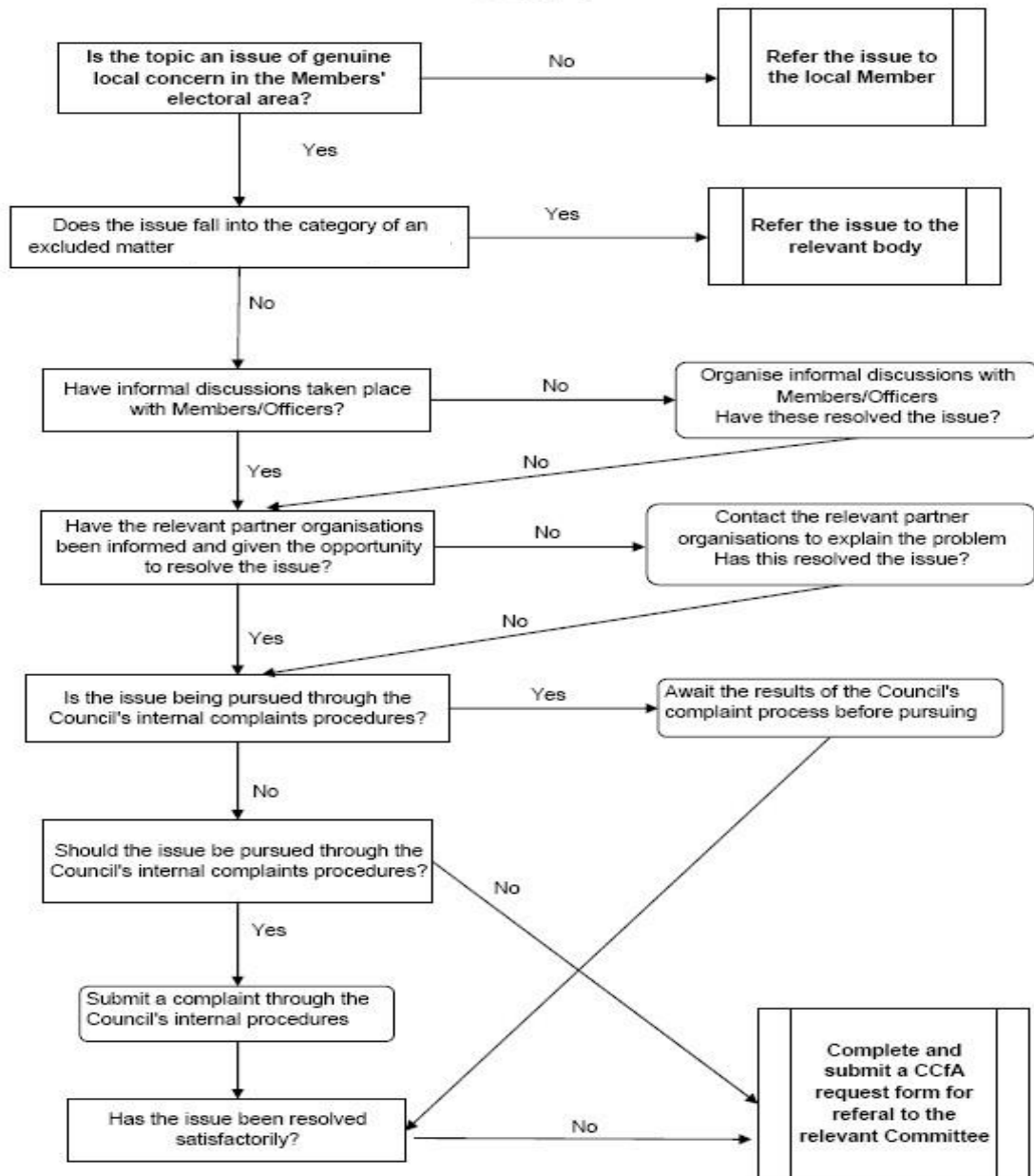
Having considered a CCfA, a Scrutiny committee may take one or more of the following actions:

- (a) ask for further information to be brought to a future meeting
- (b) require the attendance of Cabinet members or senior officers to attend a future meeting to answer questions
- (c) set up a Task and Finish Group to undertake an in-depth review
- (d) make a report or recommendations to Full Council, the Cabinet or partner agency and:
  - (i) publish that report
  - (ii) request Full Council or Cabinet to consider and respond to the report, setting out what action it proposes to take and to publish its response
  - (iii) request a partner agency to have regard to the report when exercising its functions

If a Scrutiny committee decides to take any action then it will inform the member who raised the CCfA and provide them with a copy of any report or recommendations made in relation to the CCfA, together with any response received from Full Council, the Cabinet or a partner agency.

If a Scrutiny committee decides not to consider a CCfA or on consideration decides no further action is necessary, it will inform the member who raised the CCfA and explain the reasons why.

The flowchart below will assist in deciding whether an issue is ready for referral to a Scrutiny committee as a CCfA.





## **Call-In procedure**

Any decision of the Cabinet or Cabinet member can be the subject of a Call-In, apart from:

- (a) a recommendation to Full Council for adoption or approval
- (b) in exceptional cases of urgency (see Part 3 Section 17, below)
- (c) if the item has already been on a Scrutiny committee agenda arising from the Forward Plan; observations were made to Cabinet; and these were taken into account when making the decision
- (d) the appointment of Cabinet members and the allocation of their portfolios

Call-In can only be requested if:

- (a) such concerns were raised in writing with the Monitoring Officer following publication of the agenda item, or at the meeting of the Cabinet, and were not taken into account; or
- (b) in relation to a Cabinet member decision, such concerns were raised in writing with the Cabinet member during the notification period prior to the decision being taken and not taken into account

## **Who may request a Call-In**

- (a) The Chairman of Corporate Scrutiny Committee, together with at least two voting members of the Scrutiny committees and one other member of the council, must sign a Call-In request (such voting members may include parent governor co-opted members and diocesan co-opted members).
- (b) One of those calling-in the decision must be identified as the lead member for the Call-In.
- (c) A Scrutiny committee member may not sign a Call-In request if the matter is only of specific reference to their own electoral division.
- (d) If a member cannot obtain the necessary number for a Call-In but is still concerned about the decision, that member is entitled to request that the Scrutiny Officer consult with the chairman on its inclusion on the next agenda of the relevant Scrutiny committee. This will not, however, prevent or delay implementation of the decision.
- (e) Any member of the council, not on any of the Scrutiny committees, may request that Scrutiny committee members consider instigating the Call-In process, provided that the member has followed the process outlined above.
- (f) There should be no party whip applied to the Call-In process.

## **Submission of a Call-In notice**

- (a) The notice requesting a Call-In must be sent (either in paper or by electronic means) to the Monitoring Officer (or their deputy) via the dedicated Democratic Services in-box, who shall notify the relevant Cabinet member, Director, chairman of the relevant Scrutiny committee, Chief Executive and Chief Finance Officer.
- (b) The Chair of the relevant Scrutiny Committee may reject the Call-In notice if, after consultation with the Monitoring Officer (or their deputy), insufficient detail has been given about the reason for Call-In and desired outcomes.
- (c) On receipt of a Call-In notice, the Monitoring Officer (or their deputy) will stop implementation of the decision and consult with all relevant parties on calling a meeting of the relevant Scrutiny committee to consider the matter.
- (d) A decision on a Call-In request will be given within three working days from the date of receipt.

## **Withdrawal of Call-In notice**

- (a) A Call-In notice that has already been submitted may be withdrawn before the agenda is despatched for the meeting of the relevant Scrutiny committee called to consider the matter. Such a withdrawal must be signed by all the members signing the original Call-In notice and also state the reasons for this.
- (b) The Monitoring Officer (or their deputy) shall prepare a report on the circumstances of the withdrawal for inclusion on the agenda for the next meeting of the relevant Scrutiny committee. The report shall include details of any implications arising from any delay caused.

## **Scrutiny meeting to consider Call-In**

- (a) 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, including the nominated lead member.
- (b) Consideration of the Call-In by the relevant Scrutiny committee shall either be:
  - (i) at a special meeting specifically for the item if the decision has to be implemented within a set timeframe, and within a period of 15 working days from the date that the Call-In was accepted by the Monitoring Officer; or
  - (ii) if deemed appropriate by the chairman of the relevant Scrutiny committee in consultation with all relevant Cabinet members and Directors, at the next Ordinary Meeting of the committee
- (c) Discussion of any Call-In decision shall precede all other substantive items on the agenda.

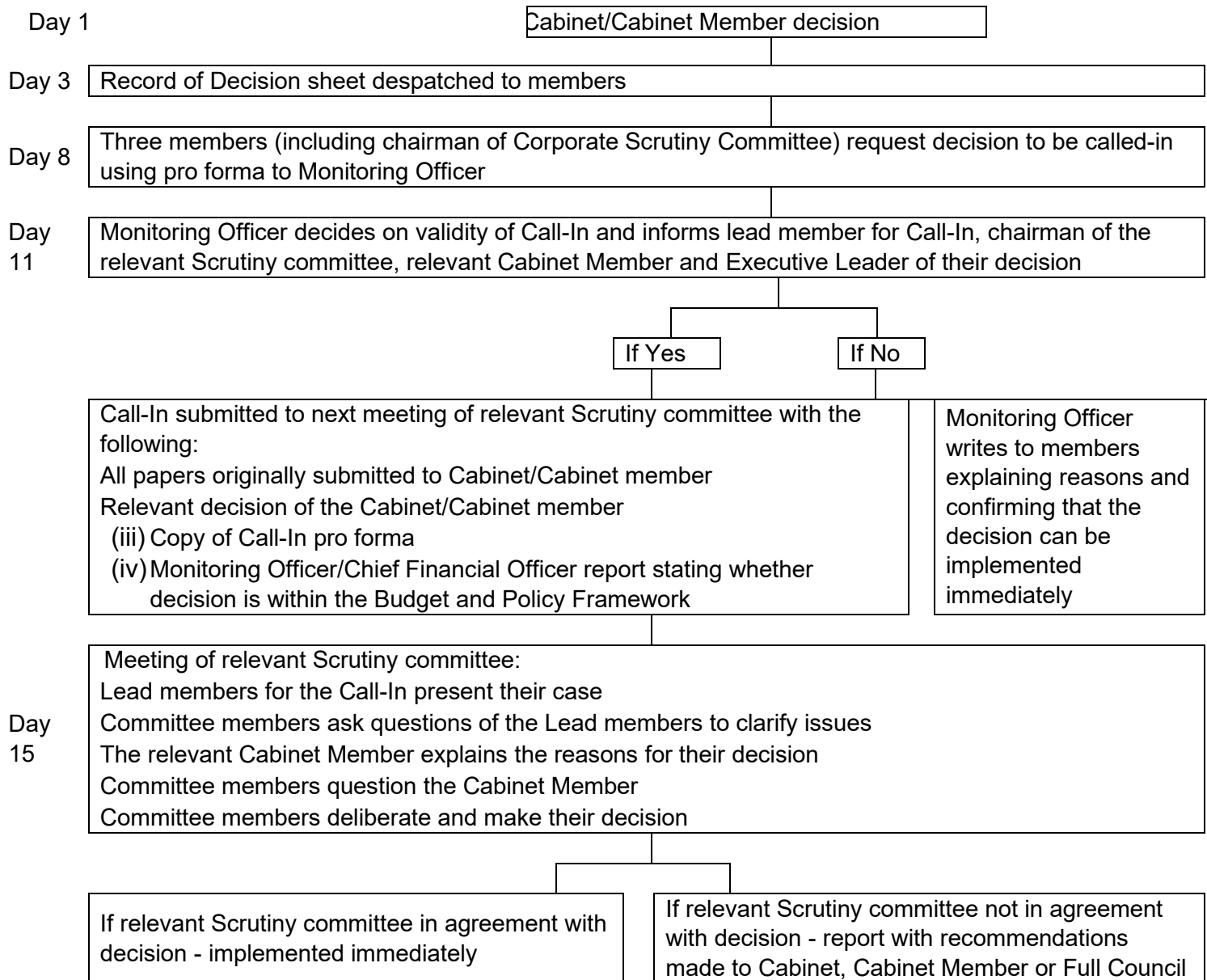
## **Action that can be taken in relation to a Call-In**

Following consideration of submissions in relation to the Call-In, the relevant Scrutiny committee may take the following action:

- (a) Accept the decision made by the Cabinet or Cabinet member, in which case the decision takes effect immediately
- (b) Accept the decision made by the Cabinet or Cabinet member and make recommendations associated with that decision, in which case the decision takes effect immediately
- (c) Accept the decision made by the Cabinet or Cabinet member and add an item to the committee's workplan to review the effect of the decision at a later date, in which case the decision takes effect immediately
- (d) Refer the decision back to the Cabinet or Cabinet member with recommendations. The relevant Scrutiny committee must set out in writing the nature of its concerns that the Cabinet or Cabinet member must consider before making a final decision. If the concerns and recommendations are not accepted, the Cabinet or Cabinet member must state their reasons before implementing the decision. If the Cabinet or Cabinet member 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.
- (e) If advice is received from the Monitoring Officer that the decision is unlawful or outside the Policy Framework; or from the Chief Finance Officer that the decision is outside the Budget, the decision cannot be implemented and must be referred back to the Cabinet or Cabinet member 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 Cabinet or Cabinet member can be implemented.

### Scrutiny Call-In Flowchart



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## 10. Local Choice Functions

Local Choice functions are set out in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. These functions may be, but need not be, the responsibility of the Executive. It is up to Full Council to decide. Having regard to government guidance, Full Council has decided that Local Choice functions will be Executive or Non-Executive as set out in the table below:

| LOCAL CHOICE FUNCTION   | STATUS OF FUNCTION | DELEGATION TO OFFICERS  | DELEGATION TO NON-EXECUTIVE COMMITTEES |
|---|--------------------|---|--|
| 1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.   | Executive          | All Directors   | N/a                                    |
| 2. Other than those reserved to a Non-Executive committee, the determination of appeals against any decision made by or on behalf of the authority.                                       | Executive          | All Directors in relation to decisions taken in their directorate | N/a                                    |
| 3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998                            | Executive          | Director of Corporate Services                                    | N/a                                    |
| 4. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (reviews of exclusion of pupils). This is now s.51A of the Education Act 2002 | Executive          | Director of Corporate Services                                    | N/a                                    |
| 5. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals)  | Executive          | Director of Corporate Services                                    | N/a                                    |
| 6. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies)                           | Executive          | Director of Corporate Services                                    |  |
| 7. Any function relating to contaminated land.  | Executive          | Director of Neighbourhoods  | N/a                                    |
| 8. The discharge of any function relating to the control of pollution or the management of air quality  | Executive          | Director of Neighbourhoods  | N/a                                    |
| 9. The service of an abatement notice in respect of a statutory nuisance  | Executive          | Director of Neighbourhoods  | N/a                                    |
| 10. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area   | Executive          | Director of Neighbourhoods  | N/a                                    |
| 11. The inspection of the authority's area to detect any statutory nuisance   | Executive          | Director of Neighbourhoods  | N/a                                    |
| 12. The investigation of any complaint as to the existence of a statutory nuisance  | Executive          | Director of Neighbourhoods  | N/a                                    |
| 13. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land  | Executive          | Director of Regeneration  | N/a                                    |

| <b>LOCAL CHOICE FUNCTION</b>  | <b>STATUS OF FUNCTION</b>   | <b>DELEGATION TO OFFICERS</b> | <b>DELEGATION TO NON-EXECUTIVE COMMITTEES</b>  |
|---|-----------------------------|-------------------------------|--|
| 14.The making of agreements for the execution of highways works   | Executive                   | Director of Neighbourhoods    | N/a  |
| 15.The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions Act 1976   | Executive                   | All Directors                 | N/a  |
| 16.The appointment of any individual -<br>(a) to any office other than an office in which they are employed by the authority<br>(b) to any body other than<br>(i) the authority;<br>(ii) a joint committee of two or more authorities; or<br>(c) to any committee or sub-committee of such a body | Executive and Non-Executive | N/a                           | The Leader where the appointment relates to Executive powers. The Council where the appointment relates to Non-Executive functions |
| 17.The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities  | Executive                   | All Directors                 | N/a  |
| 18.Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of this schedule  | Non-Executive               | N/a                           | Harbour Committee  |
| 19.Functions under sections 106, 110, 111 and 113 of the Local Government and Public Health Act 2007 relating to local area agreements  | Executive                   | Chief Executive               | N/a  |

## 11. Non-Executive Scheme of Officer Delegation

Full Council has delegated to committees and officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended), which are not the responsibility of the Executive.

When exercising these delegated powers, officers must maintain a close liaison with the relevant committee chairman and refer any proposed action to the relevant committee if required by the chairman.

Officers may, in turn, delegate their powers to more junior officers, or escalate the making of those decisions to the relevant Director, but must ensure that such delegations are documented to the satisfaction of the Chief Executive and Monitoring Officer and are regularly reviewed.

Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others. Any Non-Executive function may be exercised by the Chief Executive notwithstanding its delegation to another Director, except those reserved by law to others.

Officers (or an officer authorised by them) may take action on urgent matters, which would otherwise require reference to, or consultation with Full Council or a committee, if there is no time for such reference or consultation to be made; relevant committee chairmen should be consulted if time permits. All such decisions should be reported to the next meeting of Full Council or committee.

Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with the Guide to Recording and Publishing Officer Decisions (see Part 5 Section 3).

| FUNCTION   | PROVISION OF ACT OR STATUTORY INSTRUMENT  | RESPONSIBILITY/DECISION MAKER  |
|--|---|--|
| <p><i>Titles in italics in column 3 indicate full delegation to the named officer.<br/>Where only council or a committee name is shown indicates no delegations to officers.</i></p>   |   |  |
| <p><b>A. Functions relating to town and country planning and development control</b><br/> <i>Delegations in this section should be read in conjunction with the separate delegations contained in the Code of Practice for Members and Officers Dealing with Planning Matters (see Part 5 Section 11).</i></p> |   |  |
| <p>5. Power to determine application for planning permission.</p>  | <p>Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990</p> | <p>PLANNING COMMITTEE<br/> <i>Assistant Director for Economic Development, Planning &amp; Assets</i></p> |
| <p>6. Power to determine applications to develop land without compliance with conditions previously attached.</p>  | <p>Section 73 of the Town and Country Planning Act 1990</p>                       | <p>PLANNING COMMITTEE<br/> <i>Assistant Director for Economic Development, Planning &amp; Assets</i></p> |
| <p>7. Power to grant planning permission for</p>   | <p>Section 73A of the Town and Country Planning Act 1990</p>                      | <p>PLANNING COMMITTEE<br/> <i>Assistant Director for Economic Development, Planning &amp; Assets</i></p> |

| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>  | <b>RESPONSIBILITY/DECISION MAKER</b>  |
|--|--|---|
| development already carried out.   |  |   |
| 8. Power to decline to determine application for planning permission.  | Section 70A of the Town and Country Planning Act 1990  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 9. Duties relating to the making of determinations of planning applications.   | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 and directions made thereunder | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 10. Power to determine application for planning permission made by a local authority, alone or jointly with another person.                | Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights. | Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 12. Power to enter into agreement regulating development or use of land.   | Section 106 of the Town and Country Planning Act 1990  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 13. Power to issue a certificate of existing or proposed lawful use or development.  | Sections 191(4) and 192(2) of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 14. Power to serve a completion notice.  | Section 94(2) of the Town and Country Planning Act 1990  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 15. Power to grant consent for the display of advertisements.  | Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |



| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>  | <b>RESPONSIBILITY/DECISION MAKER</b>  |
|--|--|---|
|  | Advertisements) Regulations 1992   |   |
| 16. Power to authorise entry onto land.  | Section 196A of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 17. Power to require the discontinuance of a use of land.  | Section 102 of the Town and Country Planning Act 1990  | PLANNING COMMITTEE  |
| 18. Power to serve a planning contravention notice, breach of condition notice or stop notice.   | Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 18A. Power to issue a temporary stop notice.   | Section 171E of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 19 Power to issue an enforcement notice.   | Section 172 of the Town and Country Planning Act 1990  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 20. Power to apply for an injunction restraining a breach of planning control.   | Section 187B of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 21. Power to determine applications for hazardous substances consent, and related powers.  | Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject. | Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act | PLANNING COMMITTEE  |
| 23. Power to require proper maintenance of land.   | Section 215(1) of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 24. Power to determine application for listed  | Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |

| FUNCTION   | PROVISION OF ACT OR STATUTORY INSTRUMENT  | RESPONSIBILITY/DECISION MAKER   |
|--|---|---|
| building consent, and related powers.  | Buildings and Conservation Areas) Act 1990  |   |
| 26. Duties relating to applications for listed building consent  | Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01 | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 27. Power to serve a building preservation notice, and related powers.                                   | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 28. Power to issue enforcement notice in relation to demolition of listed building in conservation area. | Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 29. Powers to acquire a listed building in need of repair and to serve a repairs notice.                 | Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 30. Power to apply for an injunction in relation to a listed building.                                   | Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990  | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 30A. Power to authorise stopping up or diversion of highway.   | Section 247 of the Town and Country Planning Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| 31. Power to execute urgent works.   | Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |

| FUNCTION  | PROVISION OF ACT OR STATUTORY INSTRUMENT  | RESPONSIBILITY/DECISION MAKER   |
|---|---|---|
| 32. Duty to enter land in Part 2 of the brownfield land register.   | Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning &amp; Assets</i> |
| <b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b> |   |   |
| 1. Power to issue licences authorising the use of land as a caravan site (“site licences”).                       | Section 3(3) of the Caravan Sites and Control of Development Act 1960   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>      |
| 2. Power to license the use of moveable dwellings and camping sites.  | Section 269(1) of the Public Health Act 1936  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>      |
| 3. Power to license hackney carriages and private hire vehicles.  | (a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;<br>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>      |
| 4. Power to license drivers of hackney carriages and private hire vehicles.                                       | Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>      |
| 5. Power to license operators of hackney carriages and private hire vehicles.                                     | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>      |

| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>   | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|--|---|--|
| 14A. Any function of a licensing authority   | Licensing Act 2003 and any regulations or orders made under that Act  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>   |
| 14AZA. Powers and functions relating to late night levy requirements.  | Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and regulations made thereunder | LICENSING COMMITTEE  |
| 14AA. Duty to comply with requirement to provide information to Gambling Commission.                                 | Section 29 of the Gambling Act 2005   | LICENSING COMMITTEE<br><i>Strategic Manager for Regulatory and Community Safety Services</i> |
| 14AB. Functions relating to exchange of information.   | Section 30 of the Gambling Act 2005   | LICENSING COMMITTEE<br><i>Strategic Manager for Regulatory and Community Safety Services</i> |
| 14AC. Functions relating to occasional use notices.  | Section 39 of the Gambling Act 2005   | LICENSING COMMITTEE<br><i>Strategic Manager for Regulatory and Community Safety Services</i> |
| 14B. Power to resolve not to issue a casino premises licence   | Section 166 of the Gambling Act 2005  | LICENSING COMMITTEE  |
| 14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises. | Section 304 of the Gambling Act 2005  | LICENSING COMMITTEE  |
| 14CA. Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.       | Section 284 of the Gambling Act 2005  | LICENSING COMMITTEE  |
| 14D. Power to institute criminal proceedings   | Section 346 of the Gambling Act 2005  | LICENSING COMMITTEE<br><i>Strategic Manager for Regulatory and Community Safety Services</i> |
| 14E. Power to exchange information   | Section 350 of the Gambling Act 2005  | LICENSING COMMITTEE<br><i>Strategic Manager for Regulatory and Community Safety Services</i> |
| 14F. Functions relating to the determination of fees for premises licences.  | The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007                                   | LICENSING COMMITTEE  |

| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>  | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|---|--|--|
| 14G. Functions relating to the registration and regulation of small society lotteries.                    | Part 5 of Schedule 11 to the Gambling Act 2005   | LICENSING COMMITTEE  |
| 15. Power to license sex shops and sex cinemas.   | The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3       | LICENSING COMMITTEE  |
| 16. Power to license performances of hypnotism.   | The Hypnotism Act 1952   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.                  | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982            | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 18. Power to license pleasure boats and pleasure vessels.   | Section 94 of the Public Health Acts Amendment Act 1907                                  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 20. Power to license market and street trading.   | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 22. Duty to keep list of persons entitled to sell non-medicinal poisons                                   | Sections 3(1)(b)(ii), 5,6 & 11 of the Poisons Act 1972                                   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 24. Power of register and license premises for the preparation of food.                                   | Section 19 of the Food Safety Act 1990   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 25. Power to license scrap yards.   | Section 1 of the Scrap Metal Dealers Act 1964  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds. | The Safety of Sports Grounds Act 1975  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.  | Part III of the Fire Safety and Safety of Places of Sport Act 1987                       | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |

| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>  | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|--|--|--|
| 28. Power to issue fire certificates. <sup>2</sup>   | Section 5 of the Fire Precautions Act 1971   | LICENSING COMMITTEE<br><i>Chief Fire Officer</i>   |
| 29. Power to license premises for the breeding of dogs.  | Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business. | Section 1 of the Pet Animals Act 1951 section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 31. Power to register animal trainers and exhibitors.  | Section 1 of the Performing Animals (Regulation) Act 1925  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 32. Power to license zoos.   | Section 1 of the Zoo Licensing Act 1981  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 33. Power to license dangerous wild animals.   | Section 1 of the Dangerous Wild Animals Act 1976   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 35. Power to license the employment of children.   | Part II of the Children and Young Persons Act 1933, bylaws made under that Parts I and II of the Children and Young Persons Act 1963   | COUNCIL<br><i>Assistant Director for Children &amp; Families</i>                           |
| 36. Power to approve premises for the solemnisation of marriages.  | Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995  | LICENSING COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>                         |
| 37. Power to register common land or town or   | Regulation 6 of the Commons Registration   | APPEALS COMMITTEE  |

<sup>2</sup> Review once CFA established.

| FUNCTION   | PROVISION OF ACT OR STATUTORY INSTRUMENT   | RESPONSIBILITY/DECISION MAKER  |
|--|--|--|
| <p>village greens, except where solely for the purpose of giving effect to:</p> <p>(a) an exchange of lands effected by an order under s.19(3) of, or para 6(4) of Sch 3 to, the Acquisition of Land Act 1981 or</p> <p>(b) an order under s.147 of the Inclosure Act 1845</p> | (New Land) Regulations 1969  |  |
| 38. Power to register variation of rights of common.   | Regulation 29 of the Commons Registration (General) Regulations 1966   | APPEALS COMMITTEE  |
| 39. Power to license persons to collect for charitable and other causes.   | Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 40. Power to grant consent for the operation of a loudspeaker.   | Schedule 2 to the Noise and Statutory Nuisance Act 1993  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 41. Power to grant a street works licence.   | Section 50 of the New Roads and Street Works Act 1991  | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 43. Power to issue licences for the movement of pigs.  | Article 12 of the Pigs (Records, Identification and Movement) Order 1995   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 44. Power to license the sale of pigs.   | Article 13 of the Pigs (Records, Identification and Movement) Order 1995   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 45. Power to license collecting centres for the movement of pigs.  | Article 14 of the Pigs (Records, Identification and Movement) Order 1995   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |

| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>            | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|---|--|--|
| 46. Power to issue a licence to move cattle from a market.  | Article 5(2) of the Cattle Identification Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 46A. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers. | Sections 115E, 115F and 115K of the Highways Act 1980      | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 47. Power to permit deposit of builder's skip on highway.   | Section 139 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 47A. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.                             | Section 115G of the Highways Act 1980                      | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 48. Power to license planting, retention and maintenance of trees etc. in part of highway.  | Section 142 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 49. Power to authorise erection of stiles etc. on footpaths or bridleways.  | Section 147 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>                         |
| 50. Power to license works in relation to buildings etc. which obstruct the highway.  | Section 169 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 51. Power to consent to temporary deposits or excavations in streets.   | Section 171 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 52. Power to dispense with obligation to erect hoarding or fence.   | Section 172 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 53. Power to restrict the placing of rails, beams etc. over highways.   | Section 178 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 54. Power to consent to construction of cellars etc. under street.  | Section 179 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |
| 55. Power to consent to the making of openings into cellars etc. under  | Section 180 of the Highways Act 1980                       | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>              |



| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>   | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|---|---|--|
| streets, and pavement lights and ventilators.   |   |  |
| 62. Power to approve fish products premises.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 63. Power to approve dispatch or purification centres.  | Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 64. Power to register fishing vessels on board which shrimps or molluscs are cooked.  | Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 65. Power to approve factory vessels and fishery product establishments.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 66. Power to register auction and wholesale markets.  | Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 72. Functions relating to the registration of common land and town or village greens.   | Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008            | COUNCIL<br><i>Strategic Manager for Planning and Infrastructure</i>                        |
| <b>C. Functions relating to health and safety at work</b>   |   |  |
| Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in | Part I of the Health and Safety at Work etc. Act 1974   | COUNCIL<br><i>Director of Corporate Services</i>   |

| FUNCTION  | PROVISION OF ACT OR STATUTORY INSTRUMENT   | RESPONSIBILITY/DECISION MAKER                    |
|---|--|--|
| the authority's capacity as an employer.  |  |  |
| <b>D. Functions relating to elections</b>   |  |  |
| 1. Duty to appoint an electoral registration officer.   | Section 8(2) of the Representation of the People Act 1983  | COUNCIL  |
| 2. Power to assign officers in relation to requisitions of the registration officer.                  | Section 52(4) of the Representation of the People Act 1983                                       | COUNCIL<br><i>Director of Corporate Services</i> |
| 3. Functions in relation to parishes and parish councils.   | Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part. | COUNCIL  |
| 4. Power to dissolve small parish councils.   | Section 10 of the Local Government Act 1972  | COUNCIL  |
| 5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups. | Section 11 of the Local Government Act 1972  | COUNCIL  |
| 6. Duty to appoint returning officer for local government elections.                                  | Section 35 of the Representation of the People Act 1983  | COUNCIL  |
| 8. Duty to divide constituency into polling districts.  | Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983            | COUNCIL  |
| 9. Power to divide electoral divisions into polling districts at local government elections.          | Section 31 of the Representation of the People Act 1983  | COUNCIL  |
| 10. Powers in respect of holding of elections.  | Section 39(4) of the Representation of the People Act 1983                                       | COUNCIL<br><i>Director of Corporate Services</i> |
| 11. Power to pay expenses properly incurred by electoral registration officers.                       | Section 54 of the Representation of the People Act 1983  | COUNCIL<br><i>Director of Corporate Services</i> |
| 12. Power to fill vacancies in the event of insufficient nominations at an                            | Section 21 of the Representation of the People Act 1985  | COUNCIL  |

| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>         | <b>RESPONSIBILITY/DECISION MAKER</b>             |
|--|---|--|
| ordinary election of parish councillors.   |   |  |
| 13. Duty to declare vacancy in office in certain cases.  | Section 86 of the Local Government Act 1972             | COUNCIL  |
| Duty to give public notice of a casual vacancy.  | Section 87 of the Local Government Act 1972             | COUNCIL<br><i>Director of Corporate Services</i> |
| 15. Power to make temporary appointments to parish councils.   | Section 91 of the Local Government Act 1972             | COUNCIL  |
| 17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000. | Section 10 of the Representation of the People Act 2000 | COUNCIL  |
| 18. Duty to consult on change of scheme for elections.   | Sections 33(2), 38 (2) and 40(2) of the 2007 Act        | COUNCIL  |
| 19. Duties relating to publicity.  | Sections 35, 41 and 52 of the 2007 Act                  | COUNCIL<br><i>Director of Corporate Services</i> |
| 20. Duties relating to notice to Electoral Commission.   | Sections 36 and 42 of the 2007 Act                      | COUNCIL<br><i>Director of Corporate Services</i> |
| 21. Power to alter years of ordinary elections of parish councillors.  | Section 53 of the 2007 Act                              | COUNCIL  |
| 22. Functions relating to change of name of electoral area.  | Section 59 of the 2007 Act                              | COUNCIL  |
| <b>E. Functions relating to name and status of areas and individuals</b>   |   |  |
| 1. Power to change the name of a county council.   | Section 74 of the Local Government Act 1972             | COUNCIL  |
| 2. Power to change the name of a parish.   | Section 75 of the Local Government Act 1972             | COUNCIL  |
| 2. Power to confer title of honorary alderman or to admit an honorary freeman.   | Section 249 of the Local Government Act 1972            | COUNCIL  |

| FUNCTION  | PROVISION OF ACT OR STATUTORY INSTRUMENT  | RESPONSIBILITY/DECISION MAKER                    |
|---|---|--|
| <b>EB. Functions relating to community governance</b>                               |   |  |
| 1. Duties relating to community governance reviews.                                 | Section 79 of the Local Government and Public Involvement in Health Act 2007            | COUNCIL  |
| 2. Functions relating to community governance petitions.                            | Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007 | COUNCIL  |
| 3. Functions relating to terms of reference of review.                              | Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007 | COUNCIL  |
| 4. Power to undertake a community governance review.                                | Section 82 of the Local Government and Public Involvement in Health Act 2007            | COUNCIL  |
| 5. Functions relating to making of recommendations.                                 | Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007     | COUNCIL  |
| 6. Duties when undertaking review.  | Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007      | COUNCIL<br><i>Director of Corporate Services</i> |
| 7. Duty to publicise outcome of review.   | Section 96 of the Local Government and Public Involvement in Health Act 2007            | COUNCIL<br><i>Director of Corporate Services</i> |
| 8. Duty to send two copies of order to Secretary of State and Electoral Commission. | Section 98(1) of the Local Government and Public Involvement in Health Act 2007         | COUNCIL<br><i>Director of Corporate Services</i> |
| 9. Power to make agreements about incidental matters.                               | Section 99 of the Local Government and Public Involvement in Health Act 2007            | COUNCIL<br><i>Director of Corporate Services</i> |
| <b>F. Power to make, amend, revoke, re-enact or enforce bylaws</b>                  |   |  |
|   | Any provision of any enactment (including a local Act), whenever passed, and section 14 | COUNCIL  |

| <b>FUNCTION</b>  | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>  | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|--|--|--|
|  | of the Interpretation Act 1978   |  |
| <b>FA. Functions relating to smoke-free premises, etc</b>  |  |  |
| 1. Duty to enforce Chapter 1 and regulations made under it.  | Section 10(3) of the Health Act 2006   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 2. Power to authorise officers.  | Section 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006  | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 3. Functions relating to fixed penalty notices.  | Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006<br>Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| 4. Power to transfer enforcement functions to another enforcement authority.   | Smoke-free (Premises and Enforcement) Regulations 2006   | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i> |
| <b>G. Power to promote or oppose local or personal Bills.</b>  |  |  |
|  | Section 239 of the Local Government Act 1972   | COUNCIL  |
| <b>H. Functions relating to pensions etc</b>   |  |  |
| 1. Functions relating to local government pensions, etc.   | Regulations under section 7, 12 or 24 of the Superannuation Act 1972   | PENSION FUND COMMITTEE   |
| 2 Functions under the Firefighters' Pension Scheme relating to pensions, etc as respects persons employed by fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004 <sup>3</sup> | Sections 34 and 36 of the Fire and Rescue Services Act 2004  |  |
| <b>I. Miscellaneous functions</b>  |  |  |
| <b>Part I: functions relating to public rights of way</b>  |  |  |

<sup>3</sup> Review once CFA established.

| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>     | <b>RESPONSIBILITY/DECISION MAKER</b>                             |
|---|---|--|
| 1. Power to create footpath, bridleway or restricted byway by agreement.  | Section 25 of the Highways Act 1980                 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 2. Power to create footpaths, bridleways and restricted byways  | Section 26 of the Highways Act 1980                 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 3. Duty to keep register of information with respect to maps, statements and declarations.                                  | Section 31A of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 4. Power to stop up footpaths, bridleways and restricted byways   | Section 118 of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 5. Power to determine application for public path extinguishment order.   | Sections 118ZA and 118C(2) of the Highways Act 1980 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 6. Power to make a rail crossing extinguishment order.  | Section 118A of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 7. Power to make a special extinguishment order.  | Section 118B of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 8. Power to divert footpaths, bridleways and restricted byways  | Section 119 of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 9. Power to make a public path diversion order.   | Sections 119ZA and 119C(4) of the Highways Act 1980 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 10. Power to make a rail crossing diversion order.  | Section 119A of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 11. Power to make a special diversion order.  | Section 119B of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 12. Power to require applicant for order to enter into agreement.   | Section 119C(3) of the Highways Act 1980            | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 13. Power to make an SSSI diversion order.  | Section 119D of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980. | Section 121B of the Highways Act 1980               | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |

| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>      | <b>RESPONSIBILITY/DECISION MAKER</b>                             |
|---|--|--|
| 15. Power to decline to determine certain applications.   | Section 121C of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 16. Duty to assert and protect the rights of the public to use and enjoyment of highways.                   | Section 130 of the Highways Act 1980                 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 17. Duty to serve notice of proposed action in relation to obstruction.                                     | Section 130A of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 18. Power to apply for variation of order under section 130B of the Highways Act 1980.                      | Section 130B(7) of the Highways Act 1980             | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 19. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.         | Section 135 of the Highways Act 1980                 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 20. Power temporarily to divert footpath, bridleway or restricted byway.                                    | Section 135A of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 21. Functions relating to the making good of damage and the removal of obstructions.                        | Section 135B of the Highways Act 1980                | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 22. Powers relating to the removal of things so deposited on highways as to be a nuisance.                  | Section 149 of the Highways Act 1980                 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 23. Power to extinguish certain public rights of way.   | Section 32 of the Acquisition of Land Act 1981       | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 24. Duty to keep definitive map and statement under review.   | Section 53 of the Wildlife and Countryside Act 1981  | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 25. Power to include modifications in other orders.   | Section 53A of the Wildlife and Countryside Act 1981 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |
| 26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the | Section 53B of the Wildlife and Countryside Act 1981 | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i> |

| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>                                   | <b>RESPONSIBILITY/DECISION MAKER</b>   |
|---|---|--|
| Wildlife and Countryside Act 1981.  |   |  |
| 28. Power to prepare map and statement by way of consolidation of definitive map and statement.   | Section 57A of the Wildlife and Countryside Act 1981.                             | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 29. Power to designate footpath as cycle track.   | Section 3 of the Cycle Tracks Act 1984  | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 30. Power to extinguish public right of way over land acquired for clearance.   | Section 294 of the Housing Act 1981   | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 31. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.   | Section 257 of the Town and Country Planning Act 1990                             | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 32. Power to extinguish public rights of way over land held for planning purposes.  | Section 258 of the Town and Country Planning Act 1990                             | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 33. Power to enter into agreements with respect to means of access.   | Section 35 of the Countryside and Rights of Way Act 2000                          | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| 34. Power to provide access in absence of agreement.  | Section 37 of the Countryside and Rights of Way Act 2000                          | APPEALS COMMITTEE<br><i>Assistant Director of Neighbourhoods</i>   |
| <b>Part II: other miscellaneous functions</b>   |   |  |
| 35. Functions relating to sea fisheries.  | Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966                 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>   |
| 36. Power to make standing orders.  | Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 | COUNCIL  |
| 37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal). | Section 112 of the Local Government Act 1972                                      | COUNCIL (for Chief Executive, Chief Finance Officer & Monitoring Officer).<br>APPOINTMENTS PANEL (for certain senior posts)<br>HEAD OF PAID SERVICE (for all others) |
| 38. Power to make standing orders as to contracts.  | Section 135 of the Local Government Act 1972                                      | COUNCIL  |



| <b>FUNCTION</b>   | <b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>                       | <b>RESPONSIBILITY/DECISION MAKER</b>  |
|---|---|---|
| 39. Duty to make arrangements for proper administration of financial affairs etc.   | Section 151 of the Local Government Act 1972                          | COUNCIL<br><i>Director of Finance and Chief Finance Officer</i>                               |
| 40. Power to appoint officers for particular purposes (appointment of proper officers).   | Section 270(3) of the Local Government Act 1972                       | COUNCIL<br><i>Head of Paid Service</i>  |
| 41. Power to make limestone pavement order.   | Section 34(2) of the Wildlife and Countryside Act 1981                | LICENSING COMMITTEE<br><i>Strategic Manager Highways &amp; Transportation</i>                 |
| 42. Power to make closing order with respect to take-away food shops.   | Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 | LICENSING COMMITTEE<br><i>Strategic Manager Regulatory Services &amp; Community Safety</i>    |
| 43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.   | Section 4(1) of the Local Government and Housing Act 1989             | COUNCIL   |
| 44. Duty to designate officer as the monitoring officer, and to provide staff, etc.   | Section 5(1) of the Local Government and Housing Act 1989             | COUNCIL   |
| 44A. Duty to provide staff, etc to person nominated by monitoring officer.  | Sections 82A(4) and (5) of the Local Government Act 2000              | COUNCIL<br><i>Chief Executive</i>   |
| 44B. Powers relating to overview and scrutiny committees (voting rights of co-opted members).   | Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000   | COUNCIL<br><i>Monitoring Officer</i>  |
| 45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be). | The Accounts and Audit Regulations 2015                               | COUNCIL OR AUDIT COMMITTEE  |
| 46. Powers relating to the protection of important hedgerows.   | The Hedgerows Regulations 1997  | PLANNING COMMITTEE  |
| 47. Powers relating to the preservation of trees.   | Sections 197 to 214D of the Town and Country Planning Act 1990, and   | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning and Assets</i> |

| FUNCTION   | PROVISION OF ACT OR STATUTORY INSTRUMENT     | RESPONSIBILITY/DECISION MAKER   |
|--|--|---|
|  | the Trees Regulations 1999                   |   |
| 47A. Powers relating to complaints about high hedges.  | Part 8 of the Anti-Social Behaviour Act 2003 | PLANNING COMMITTEE<br><i>Assistant Director for Economic Development, Planning and Assets</i> |
| 48. Power to make payments or provide other benefits in cases of maladministration etc.  | Section 92 of the Local Government Act 2000  | LICENSING COMMITTEE<br><i>All Directors in consultation with the Monitoring Officer</i>       |
| 51. Power to apply for an enforcement order against unlawful works on common land.   | Section 41 of the Commons Act 2006           | COUNCIL<br><i>Strategic Manager for Legal Services</i>  |
| 52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.            | Section 45(2)(a) of the Commons Act 2006     | COUNCIL<br><i>Strategic Manager for Legal Services</i>  |
| 53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens. | Section 45(2)(b) of the Commons Act 2006     | COUNCIL<br><i>Strategic Manager for Legal Services</i>  |

## 12. Statutory and Proper Officers

The council has appointed Proper Officers for the purposes of the statutory provisions set out below. Power to appoint Proper Officers is delegated to the Head of Paid Service, following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Full Council.

The Chief Executive and each Director shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their areas of responsibility set out below:

| <b>PURPOSE OF APPOINTMENT</b>   | <b>PROPER OFFICER</b> |
|---|-----------------------|
| Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the council   | Monitoring Officer    |
| Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the council | Director of Finance   |

### **LOCAL AUTHORITY SOCIAL SERVICES ACT 1970**

| <b>Section</b> | <b>Purpose</b>                                   | <b>Proper Officer</b>             |
|----------------|--|-----------------------------------|
| 6(A1)          | Appointment as Director of Adult Social Services | Director of Adult Social Services |

### **AGRICULTURE ACT 1970**

| <b>Section</b> | <b>Purpose</b>                      | <b>Proper Officer</b>      |
|----------------|-------------------------------------|----------------------------|
| 67(3)          | Appointment as Agricultural Analyst | Director of Neighbourhoods |

### **LOCAL GOVERNMENT ACT 1972**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>                       |
|----------------|--|---|
| 83             | Witness and receive declarations of Members' acceptance of office                      | Monitoring Officer                          |
| 84             | Receive written notice of Members' resignation from office                             | Monitoring Officer                          |
| 88(2)          | Convene Council meeting for election to vacant office of Chairman                      | Monitoring Officer                          |
| 89(1)(B)       | Receive notice of casual vacancy from two local government electors                    | Director of Corporate Services              |
| 100B(2)        | Decide on the exclusion of reports and agendas from public inspection                  | Monitoring Officer                          |
| 100B(7)(c)     | Decide whether copy documents supplied to Members should also be supplied to the press | Monitoring Officer                          |
| 100C(2)        | Produce a written summary of proceedings taken by a committee in private               | Monitoring Officer                          |
| 100D(1)(a)     | Compile a list of background papers to a committee report.                             | Officer in whose name the report is written |
| 100D(5)(a)     | Identify background papers that disclose facts or matters on which a report is based   | Officer in whose name the report is written |
| 100F(2)        | Identify which documents contain exempt information not                                | Monitoring                                  |

|                             |  |  |
|-----------------------------|--|--|
|                             | open to inspection by Members  | Officer  |
| 115(2)                      | Receive from officers any money and property committed to their charge in connection with their office   | Director of Finance  |
| 146(1)                      | Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the council  | Director of Finance  |
| 151                         | Responsibility for the administration of the council's financial affairs.  | Director of Finance  |
| 191(2)                      | Receive applications from Ordnance Survey for assistance in surveying disputed boundaries.   | Assistant Director for Regeneration  |
| 210(6)-(7)                  | Exercise residual functions relating to charities.   | Director of Corporate Services   |
| 225(1)                      | Receive and retain documents deposited with the council  | Assistant Director for Neighbourhoods  |
| 229(5)                      | Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original  | Strategic Manager Legal Services   |
| 234(1)                      | Sign public notices, orders and other documents on behalf of the council   | Strategic Manager Legal Services (generally) and the officers listed in the Scheme of Delegation within their area of responsibility (see Part 3 Section 18) |
| 238                         | Certification of copy bylaws   | Strategic Manager Legal Services   |
| Sch.12 Pt1 Para.4(2)(b)     | Sign and send to all Members of the council the summons to attend meetings of the council  | Monitoring Officer   |
| Sch.12 Pt1 Para 4(3)        | Receive written notice from a Member of the address to which a summons to the meeting is to be sent  | Monitoring Officer   |
| Schedule 29, Para.4         | Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer   | Chief Executive  |
| Sch.29 Pt.I Para.4(1)(b)    | Adaptation, modification and amendment of enactments   | Monitoring Officer   |
| Sch.29 Pt.II Para.41(3)-(5) | Appoint interim superintendent registrars or interim registrars of births and deaths under the Registration Service Act 1953.<br>Exercise powers provided by the local scheme of organisation of the Registration Service under the 1953 Act.<br>Prescription by the Registrar General of duties of Proper Officers under the Registration and Marriage Acts.<br>Exercise functions under the Marriage Act 1949 In relation to the registration of births, deaths and marriages. | Strategic Manager for Recreation and Public Spaces   |

|  |   |  |
|--|---|--|
|  | Approve premises for the solemnisation of marriages under Section 26(1)(bb) and Section 46A of the Marriage Act 1949 (as amended by the Marriage Act 1994) and the Marriages and Civil Partnerships Act (Approved Premises) Regulations 2005. |  |
|--|---|--|

#### **LOCAL GOVERNMENT ACT 1974**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>                |
|----------------|--|--------------------------------------|
| 30(5)          | Give public notice of receipt of Local Government Ombudsman's report | Strategic Manager<br>Business Centre |

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

| <b>Section</b> | <b>Purpose</b>   | <b>Officer</b>     |
|----------------|--|--------------------|
| 41             | Certifying copy resolutions and minutes of proceedings | Monitoring Officer |

#### **HIGHWAYS ACT 1980**

| <b>Section</b>                   | <b>Purpose</b>   | <b>Proper Officer</b>                      |
|----------------------------------|--|--|
| 59(1)                            | Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight or extraordinary damage | Strategic Manager for Highways & Transport |
| 193(3)                           | Certify that additional expenses have been incurred in the execution of wider than normal street works   | Strategic Manager for Highways & Transport |
| 205(3)-(5)                       | Undertake duties in relation to private street works   | Strategic Manager for Highways & Transport |
| 210(2)                           | Certify amendments to estimated costs and provisional apportionment of costs of street works under the private street works code                         | Strategic Manager for Highways & Transport |
| 211(1),<br>212(4),<br>216(2)-(3) | Make a final apportionment of expenses of street works executed under the private street works code  | Strategic Manager for Highways & Transport |
| 295(1)                           | Issue a notice requiring owners to remove materials from non-maintainable streets in which works are due to take place                                   | Strategic Manager for Highways & Transport |
| 321                              | Authenticate notices, consents, approvals, orders and demands  | Strategic Manager for Highways & Transport |
| Sch.9,<br>Para.4                 | Sign plans showing proposed prescribed improvement or building lines   | Strategic Manager for Highways & Transport |

#### **REPRESENTATION OF THE PEOPLE ACT 1983**

| <b>Section</b> | <b>Purpose</b>  | <b>Proper Officer</b>          |
|----------------|---|--------------------------------|
| 8              | Appointment as Electoral Registration Officer           | Director of Corporate Services |
| 35             | Appointment as Returning Officer                        | Director of Corporate Services |
| 67(7)(b)       | Receive declarations and give public notice of election | Director of Corporate          |

|           |  |                                |
|-----------|--|--------------------------------|
|           | agents' appointments   | Services                       |
| 81 and 89 | Appropriate officer for the election of councillors  | Director of Corporate Services |
| 82(4)     | Receive declarations and give public notice of election agents' or candidates' election expenses | Director of Corporate Services |
| 131       | Providing accommodation for holding election count   | Director of Corporate Services |

#### **PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984**

| <b>Section</b>   | <b>Purpose</b>  | <b>Proper Officer</b>  |
|--|---|--|
| 48 (as amended by the Health and Social Care Act 2008) | Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately | Strategic Manager for Regulatory and Community Safety Services |

#### **WEIGHTS AND MEASURES ACT 1985**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>            |
|----------------|--|----------------------------------|
| 72(1)          | Appointment as Chief Inspector of Weights and Measures | Team Manager - Trading Standards |

#### **LOCAL GOVERNMENT FINANCE ACT 1988**

| <b>Section</b>    | <b>Purpose</b>  | <b>Proper Officer</b> |
|-------------------|---|-----------------------|
| 114, 115 and 115B | Responsibility for Chief Financial Officer reports  | Director of Finance   |
| 116(1)            | Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Financial Officer (under section 114 and 115 above) | Director of Finance   |

#### **LOCAL GOVERNMENT AND HOUSING ACT 1989**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>            |
|----------------|--|----------------------------------|
| 2(4)           | Hold the council's list of politically restricted posts  | Principal Lawyer & HR Manager    |
| 3A             | In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted | Principal Lawyer & HR Manager    |
| 4              | Designation as Head of Paid Service  | Chief Executive                  |
| 5(1)           | Designation as Monitoring Officer  | Monitoring Officer               |
| 5(7)           | Nominated as Deputy Monitoring Officer   | Strategic Manager Legal Services |
| 15-17          | Undertake all matters relating to the formal establishment of political groups within the membership of the council  | Monitoring Officer               |

#### **FOOD SAFETY ACT 1990**

| <b>Section</b> | <b>Purpose</b>                | <b>Proper Officer</b>  |
|----------------|-------------------------------|--|
| 27(1)          | Appointment of Public Analyst | Strategic Manager for Regulatory and Community Safety Services |

|       |  |  |
|-------|--|--|
| 49(3) | Sign any document authorised or required to be given, made or issued by the Food Authority | Strategic Manager for Regulatory and Community Safety Services |
|-------|--|--|

**THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990**

| Regulation                             | Purpose                                    | Proper Officer     |
|--|--|--------------------|
| 8(1), 8(5), 9(b), 10, 13(1), 14 and 17 | Notifications to and by the Proper Officer | Monitoring Officer |

**CRIME AND DISORDER ACT 1998, SECTION 115**

**CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830**

| Regulation | Purpose  | Proper Officer   |
|------------|--|--|
| 4(3)       | Primary Designated Officer for information sharing | Strategic Manager for Regulatory and Community Safety Services |

**LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22 LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

| Regulation | Purpose  | Proper Officer     |
|------------|--|--------------------|
| 7          | Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public   | Monitoring Officer |
| 10         | Inform the relevant Select Committee Chairman or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the "Forward Plan") and make available for public inspection notices relating to this | Monitoring Officer |
| 12         | Produce a written statement of Cabinet decisions made at meetings  | Monitoring Officer |
| 13         | Produce a written statement of decisions made by individual Cabinet Members  | Monitoring Officer |
| 14         | Make a copy of written statements of Cabinet and Cabinet Member and officer executive decisions and associated reports available for inspection by the public  | Monitoring Officer |
| 15 and 2   | Make available for inspection a list of background papers  | Monitoring Officer |
| 16(5)      | Determine whether certain documents contain exempt information   | Monitoring Officer |
| 16(7)      | Determine whether certain documents contain advice provided by a political adviser or assistant  | Monitoring Officer |
| 20         | Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant   | Monitoring Officer |

**LOCAL GOVERNMENT ACT 2000, SECTION 34  
LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS  
2000**

| <b>Regulation</b> | <b>Purpose</b>  | <b>Proper Officer</b>          |
|-------------------|---|--------------------------------|
| 4-5               | Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000 | Director of Corporate Services |

**REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000  
THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES,  
RANKS AND POSITIONS) ORDER 2000**

| <b>Section</b>        | <b>Purpose</b>                          | <b>Proper Officer</b>            |
|-----------------------|---|----------------------------------|
| 21, 22, 27, 28 and 29 | The Senior Responsible Officer for RIPA | Strategic Manager Legal Services |

**REGULATION OF INVESTIGATORY POWERS ACT 2000, SECTIONS 22(2)(B) AND 25(2)  
THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER  
2010**

**THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND  
PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010**

**THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE  
SOURCES: CODE OF PRACTICE) ORDER 2010**

| <b>Regulation</b> | <b>Purpose</b>                        | <b>Proper Officer</b>            |
|-------------------|---------------------------------------|----------------------------------|
| -                 | Designated Senior Responsible Officer | Strategic Manager Legal Services |

**FREEDOM OF INFORMATION ACT 2000**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b> |
|----------------|--|-----------------------|
| 36             | Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs | Monitoring Officer    |

**THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001**

| <b>Regulation</b>       | <b>Purpose</b>  | <b>Proper Officer</b>          |
|-------------------------|---|--------------------------------|
| Sch.1, Pt.II, Paras 5-6 | Notifications to the Cabinet concerning appointments and dismissals | Director of Corporate Services |

**DEPARTMENT OF HEALTH – HEALTH SERVICE CIRCULAR: LAC (2002) 2**

|   | <b>Purpose</b>                   | <b>Proper Officer</b>            |
|---|----------------------------------|----------------------------------|
| - | Designated as Caldicott Guardian | Assistant Director Commissioning |

**LOCAL GOVERNMENT ACT 2003**

| <b>Section</b> | <b>Purpose</b>  | <b>Proper Officer</b> |
|----------------|---|-----------------------|
| 25             | When the annual budget report is considered by Cabinet or by the County Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves | Director of Finance   |



**CHILDREN ACT 2004**

| Section | Purpose  | Proper Officer               |
|---------|--|------------------------------|
| 18      | Appointment as Director of Children's Services | Director Children's Services |

**TRAFFIC MANAGEMENT ACT 2004**

| Section | Purpose   | Proper Officer                                 |
|---------|---|--|
| 17      | Appointment as Traffic Manager to perform such tasks as the authority considers will assist it to perform its network management duty | Deputy Strategic Manager<br>Highways/Transport |

**MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) REGULATIONS 2005 (AS AMENDED)**

| Section | Purpose  | Proper Officer                   |
|---------|--|----------------------------------|
|         | Proper Officer for the purposes of the Registration Act 1953, the Marriage Act 1949 (as amended by the Marriage Act 1994), the Civil Partnership Act 2004, the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 as amended and receive applications, set fees and offer discounts, where applicable | Registrations & Coroners Manager |

**WORKING TOGETHER TO SAFEGUARD CHILDREN: A GUIDE TO INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN (DFE GUIDANCE, MARCH 2010)**

|   | Purpose                                   | Proper Officer |
|---|---|----------------|
| - | Local Authority Designated Officer (LADO) | LADO           |

**THE HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010**

| Regulation | Purpose   | Proper Officer  |
|------------|---|---|
| 2, 3 and 6 | Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons | Public Health England Consultant in Health Protection |

**LOCALISM ACT 2011**

| Section              | Purpose   | Proper Officer              |
|----------------------|---|-----------------------------|
| 29                   | Establish, maintain and publish a Register of Interests   | Monitoring Officer          |
| 33(1)                | Receiving applications for dispensations  | Monitoring Officer          |
| 33(2)                | Grant dispensations to Members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest | Monitoring Officer          |
| Sch.2, Pt1, Para.9FB | Designation as Scrutiny Officer   | Overview & Scrutiny Officer |

**THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

| Regulation              | Purpose   | Proper Officer     |
|-------------------------|---|--------------------|
| 2, 7, 10, 12, 13-16, 20 | Functions relating to the recording and publication of information relating to Executive decisions            | Monitoring Officer |
| 12-13                   | Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or | Chief Executive    |

|  |   |  |
|--|---|--|
|  | declared by an Executive member consulted by a member or officer taking such a decision |  |
|--|---|--|

**NHS BODIES AND LOCAL AUTHORITIES (PARTNERSHIP ARRANGEMENTS, CARE TRUSTS, PUBLIC HEALTH AND LOCAL HEALTHWATCH) REGULATIONS 2012**

| <b>Regulation</b> | <b>Purpose</b>   | <b>Proper Officer</b> |
|-------------------|--|-----------------------|
| 22(4)             | Designated as Responsible Person for ensuring compliance with the regulations        | Chief Executive       |
| 22(5)             | Designated as Complaints Manager for managing the procedures for handling complaints | Chief Executive       |

**COUNTER TERRORISM AND SECURITY ACT 2015**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>  |
|----------------|--|--|
| 36             | Requirement to have a panel of persons in place as a channel panel | Strategic Manager for Regulatory and Community Safety Services |

**DATA PROTECTION ACT 2018**

| <b>Section</b> | <b>Purpose</b>   | <b>Proper Officer</b>                    |
|----------------|--|--|
| 69, 70 and 71  | The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018 | Assistant Director of Corporate Services |

In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, another Director may be authorised by them to act as Proper Officer in their absence.

In the event of any other designated officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.

Notwithstanding the above, a Proper Officer may at any time delegate or authorise other officers to perform the designated duties on their behalf.

### **13. Cabinet**

All functions of the council that are not reserved by law or by local choice as Non-Executive (see Part 3 Section 10 above), are Executive functions. Except where the law otherwise provides, it is at the Leader's discretion to determine how decision-making in relation to Executive functions will be exercised. The Leader may discharge any Executive functions himself or may arrange for the discharge of those functions by the Cabinet as a whole, by one or more other Cabinet members, by a committee of the Cabinet, or by an officer.

The Cabinet undertakes all Executive functions (except those delegated under arrangements described in Part 3 Section 18), including:

- (a) proposing plans and strategies, including the overall Budget, the Policy Framework, changes to the Constitution and arrangements for the good governance of the authority, to Full Council to approve and adopt
- (b) publishing in the Forward Plan all decisions by Cabinet, individual Cabinet members and Key Decisions made by officers
- (c) establishing committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues
- (d) representing the council locally, nationally and internationally
- (e) attending meetings of the Scrutiny committees and any Task and Finish Groups as required and when required to do so
- (f) agreeing the acquisition and disposal of property and the management of the council's land holdings (other than Housing Land Transfers)
- (g) exercising the powers and duties of the council in respect of leisure, libraries, museums, consumer protection and environmental health
- (h) exercising the powers of and duties of the council as the local education authority
- (i) exercising the powers and duties of the council's role as social services authority
- (j) acting as the highways, transportation and waste collection and waste disposal authority
- (k) acting as the fire authority<sup>4</sup>
- (l) agreeing protocols for consultation and relations with outside bodies
- (m) some members have specific statutory duties, such as the Lead Member for children's services, who has the duty to safeguard and promote the well-being of children on the Island

As a general rule, matters of corporate policy and high level strategic matters will be determined by the Cabinet collectively; strategic matters relating to particular Cabinet member portfolios will be determined by individual Cabinet members; and operational service matters will be determined by the Chief Executive (or relevant Director) in consultation with the Leader and/or relevant Cabinet Member, where appropriate. Where there is doubt, the Leader will be asked to decide.

#### **Portfolios of Responsibility**

Cabinet members have personal responsibility for decisions taken in relation to and discharging those Executive functions within their remit (portfolio of responsibility) as determined by the Leader.

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<sup>4</sup> Review once CFA established.

All Cabinet members have responsibility for taking commissioning and delivery decisions in relation to their portfolio within the existing Budget and Policy Framework. They may also take any other decision within their area of responsibility that is delegated to an officer but which the officer has determined to be a Key Decision or which following consultation with the individual Cabinet member it is decided would be better taken by the Cabinet member instead.

If a Cabinet member wishes to make a decision contrary to the advice of the relevant Director, they must refer the issue to the Cabinet for a decision.

If a Cabinet member considers that any decision they are being asked to take is likely to be particularly sensitive or controversial, they have the discretion to refer the decision to the Cabinet for consideration.

A description of the Cabinet functions that are exercisable by individual Cabinet members is set out below, stating the name of the councillor by whom each is exercisable

| <b>Cabinet Member</b>  | <b>Portfolio Responsibilities</b>   |
|--|---|
| Leader   | <ul style="list-style-type: none"> <li>• Strategic Oversight</li> <li>• ICS</li> <li>• County Deals and Devolution</li> <li>• Civic Affairs and Events</li> <li>• Communications and Design</li> <li>• Covid Recovery</li> </ul>  |
| Deputy Leader and Cabinet Member for Digital Transformation, Housing, Homelessness and Poverty | <ul style="list-style-type: none"> <li>• ICT Contracts</li> <li>• Applications Development</li> <li>• Digital Service</li> <li>• Software Development</li> <li>• Compliance and Infrastructure</li> <li>• Desktop Support</li> <li>• Telecommunications</li> <li>• Homelessness</li> <li>• Rough Sleeping</li> <li>• Housing Related Support</li> <li>• Housing Renewal &amp; Enforcement</li> <li>• Disabled Facilities Grant</li> </ul> |
| Cabinet Member for Infrastructure, Highways PFI and Transport                                  | <ul style="list-style-type: none"> <li>• Parking Services</li> <li>• Floating Bridge</li> <li>• Harbours</li> <li>• Concessionary Fares</li> <li>• Subsidise Bus Services</li> <li>• Highway PFI Contract</li> <li>• Highways Authority</li> </ul>  |
| Cabinet Member for Children's Services, Education and Lifelong Skills                          | <ul style="list-style-type: none"> <li>• Adoption</li> <li>• Fostering</li> <li>• Disabled Children Support</li> <li>• Respite Care</li> <li>• Early Help</li> <li>• Care Leavers</li> <li>• Safeguarding</li> </ul>  |

|   |  |
|---|--|
|   | <ul style="list-style-type: none"> <li>• Short Breaks</li> <li>• Youth Service</li> <li>• Special Educational Needs</li> <li>• Alternative Education</li> <li>• Early Years Development</li> <li>• School Improvement</li> <li>• Schools</li> <li>• Asset Management</li> <li>• Home to School Transport</li> </ul>  |
| Cabinet Member for Levelling Up, Regeneration, Business Development and Tourism | <ul style="list-style-type: none"> <li>• Economic Development</li> <li>• Events</li> <li>• Regeneration Projects</li> <li>• Levelling UP, SLEP</li> <li>• Leisure Centres</li> <li>• Sports Development</li> <li>• Tourism</li> </ul>  |
| Cabinet Member for Adult Social Care and Public Health                          | <ul style="list-style-type: none"> <li>• Community Care</li> <li>• Residential Care</li> <li>• Nursing Care</li> <li>• Home Care</li> <li>• Direct Payments</li> <li>• Day Care</li> <li>• Supported Living</li> <li>• Learning Disability Homes</li> <li>• Respite Care</li> <li>• Resettlement</li> <li>• Safeguarding</li> <li>• Social workers</li> <li>• Homelessness</li> <li>• Rough Sleeping</li> <li>• Housing Related Support</li> <li>• Family Working</li> <li>• Healthy Lifestyles</li> <li>• Domestic Abuse</li> <li>• Early Help Services</li> <li>• Obesity</li> <li>• Social Health</li> <li>• Substance Misuse</li> <li>• 0-19 Services</li> </ul> |
| Cabinet Member for Planning and Enforcement                                     | <ul style="list-style-type: none"> <li>• Island Planning Strategy</li> <li>• Local Development Framework</li> <li>• Planning Applications</li> <li>• Planning Appeals</li> <li>• Planning Enforcement</li> <li>• Trees &amp; Landscape Protection</li> <li>• Building Control and Inspection</li> </ul>  |

|  |  |
|--|--|
| <p>Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services</p> | <ul style="list-style-type: none"> <li>• AONB</li> <li>• Countryside Management</li> <li>• Parks and Open Spaces</li> <li>• Beach Huts</li> <li>• Rights of Way</li> <li>• Biosphere</li> <li>• Climate Change and Environment</li> <li>• Countryside Management</li> <li>• Flood Policy and LLFA</li> <li>• Allotment's</li> <li>• Playing fields/sports grounds</li> <li>• Amenity Land Hire</li> <li>• Libraries</li> <li>• Theatres</li> <li>• Museums</li> <li>• Archaeology</li> <li>• Records Office</li> <li>• HR</li> <li>• Elections</li> <li>• Democratic Services</li> <li>• Legal Services</li> <li>• Learning and Development</li> </ul> |
| <p>Cabinet Member for Strategic Finance, Transformational Change and Corporate Resources</p>                       | <ul style="list-style-type: none"> <li>• Finance</li> <li>• Business Centre</li> <li>• Benefits and Grants</li> <li>• Audit</li> <li>• Treasury Management</li> <li>• Transformational Change</li> <li>• Property and Asset Management</li> <li>• Business Intelligence</li> </ul>   |
| <p>Cabinet Member for Community Protection, Regulatory Services and Waste</p>                                      | <ul style="list-style-type: none"> <li>• Contingency and Emergency Planning</li> <li>• Bereavement Services</li> <li>• Celebratory and Registrars</li> <li>• Coroner</li> <li>• Licensing</li> <li>• Environmental Health</li> <li>• Trading Standards</li> <li>• Community Safety</li> <li>• Waste Collection (Household, Schools and Trade)</li> <li>• Waste Disposal</li> <li>• Forest Road Waste Recovery Park (MT plant and Energy from waste)</li> <li>• Household Waste</li> <li>• Recycling Centres</li> <li>• Commercial Waste Recycling Centres</li> <li>• Closed Landfill Sites</li> <li>• Littering and Fly tip</li> </ul>                 |

## **14. Cabinet Committees**

### **Local Outbreak Engagement Board**

The Isle of Wight COVID-19 Local Outbreak Engagement Board (LOEB) is a councillor-led oversight board that forms part of the overall governance arrangements established by the council in relation to local COVID-19 outbreaks.

It is a committee of the Cabinet, established, appointed to and chaired by the Executive Leader.

The council's Procedure Rules apply to meetings of the Board in the same way as they do to meetings of the Cabinet.

The primary functions of the LOEB are to:

- (a) have political oversight relating to outbreak response and, in particular, the local delivery of the Outbreak Control Plan
- (b) provide direction and lead the engagement with local communities
- (c) be the public face of the council's response in the event of an outbreak of COVID-19
- (d) receive regular updates from the Health Protection Board via the Director of Public Health
- (e) be consulted by the Director of Public Health and other officers in relation to the exercise of COVID-19-related statutory powers, where the anticipated costs of exercising such powers exceeds the allocated budget
- (f) exercise such other powers or functions as may be delegated to it by the Executive Leader from time to time

The LOEB shall comprise the following members:

- (a) Executive Leader (chairman)
- (b) Deputy Leader and Cabinet Member for Community Protection and Digital Transformation
- (c) Cabinet Member for Adult Social Care, Public Health and Housing Needs

Officers will be required to attend meetings of the LOEB as required, typically the Chief Executive and the Director of Public Health (or their nominees).

The quorum of the LOEB will be three councillors.

The LOEB meets as and when considered necessary by the chairman.

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## **15. Forward Plan**

There is a statutory requirement to publish the intention to take any Key Decision at least 28 clear days in advance of it being taken. There is also a requirement to publish at least 28 clear days in advance if any meeting, or part thereof, is likely to consider in private a Key Decision or any other executive decision even if not a Key Decision. Both these requirements are achieved through the Forward Plan.

The Forward Plan enables elected councillors, members of the public and the Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.

The Forward Plan is updated and published as a minimum monthly and covers all decisions proposed to be made by the Full Council, Cabinet, individual Cabinet members and Key Decisions made by officers within the following four months. Not all decisions will be known four months in advance and so advance notice of decisions will be included as soon as they become known.

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## 16. Key Decisions

A Key Decision is an Executive decision that is likely to:

- (a) result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the area of the authority.

Key Decisions can be made by the Cabinet (collectively or individually) or by an officer. Officers do not have authority to make Key Decisions except where:

- they are specifically authorised by the Leader, Cabinet, Full Council or Committee; or
- the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

A decision-taker may only make a Key Decision in accordance with the requirements of the Access to Information rules (see Part 5 Section 2).

It is for the relevant Director to decide which decisions within their responsibility are Key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a Key Decision.

In considering whether a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:

- (a) the effect on businesses and communities
- (b) the expectation of the public and councillors as to whether the decision should be taken by the Cabinet
- (c) the anticipated interest of the public and of councillors
- (d) the effect on other council services and functions

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## 17. 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).

- (a) A report in the correct format has to be prepared – this ensures that all the required considerations have been taken into account (see intranet for examples)
- (b) \*All decisions by Full Council, Cabinet, individual Cabinet members and Key Decisions made by officers must have been listed in the Forward Plan, except in cases of general exception or special urgency (see Part 3 Section 18).
- (c) \*Before the report is published, it must (other than in cases of urgency) be considered by the council's internal process (details of this are available from Democratic Services) to ensure that all strategic, corporate, legal, financial, risk and other matters have been taken into account.
- (d) The report must be published five clear working days prior to the decision being taken.
- (e) The decisions of Full Council and Regulatory committees are effective immediately and can be implemented by officers straight away, unless the law otherwise prescribes.
- (f) Any Scrutiny committee or Cabinet committee recommendations are immediately referred to the appropriate decision maker:
  - (i) Where a Cabinet member is taking a delegated decision, any question from a councillor received by a Cabinet member in response to a proposed delegated decision must be responded to before the decision is confirmed, provided that such question is received in the dedicated Democratic Services in-box at least 48 hours before the published date as to when it is intended to make the decision.
  - (ii) All questions and comments received by the Cabinet member (and the responses given to them) between the publication of the notice of intended decision and the decision being made must be referred to in the decision notice.

Cabinet decisions and individual Cabinet member decisions must be published (within two working days of the decision) for five clear working days for the Call-In period, and can only be implemented at the end of that period provided there has been no Call-In (see Part 3 Section 9). In cases of urgency there are provisions to disapply Call-In (see Part 3 Section 17).

An individual Cabinet member decision must be signed-off by the relevant Cabinet member within 20 working days of the closing date for representations following its publication but, subject to the approval of the chairman of the relevant Scrutiny committee (or in their absence the Chairman or Vice-Chairman of the Council), an extension can be permitted.

No Cabinet member may exercise any decision making power until they have been given delegated power to do so by the Leader of the Cabinet or the Cabinet.

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## 18. General Exception Decisions and Urgent Decisions

Sometimes it is impracticable to include the intention to make a Key Decision on the Forward Plan, but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure if three conditions are fulfilled:

- (a) The Monitoring Officer must inform (by written notice) the Chairman of the Corporate Scrutiny Committee, or if there is no such person, each member of that Committee, of the matter about which the decision is to be made;
- (b) A copy of such notice must be placed on the website and made available for public inspection at the offices;
- (c) Five clear days must have elapsed, not counting the day upon which the copy notice was given.

As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear on the Forward Plan and to publish that notice on the website.

Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, e.g. reducing the pre-decision notification time. Urgency in these cases is defined as cases where the council will be significantly disadvantaged by a delay. Where these provisions are used, clear explanations must be made in the written reports.

In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear days' notice of a Key Decision has to be given, or 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 agreement of the chairman of the Corporate Scrutiny Committee (or, in their absence, the Chairman of the Council or, in their absence, the Vice-Chairman of the Council) that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views 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.

In either case, the chairman of Corporate Scrutiny Committee must report on such consultations/agreements at the next meeting of the relevant Scrutiny committee.

Call-In may be abridged or disapplied by a decision of the Cabinet or Cabinet member, 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 with the chairman (or in their absence the vice-chairman) of the relevant Scrutiny committee and the reasons for disapplying Call-In will be stated at the top of the report and 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.

Following the taking of an urgent decision, the Executive Leader will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why it was treated as urgent.

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## 19. Executive Scheme of Officer Delegation

### Introduction, general principles and interpretation

Certain types of decision must by law be delegated to an officer rather than being determined by councillors, e.g. the appointment and dismissal of officers below Deputy Director level; the discharge of Returning Officer duties in elections; and Proper Officer functions. Other council functions must by law be determined by councillors and not officers, e.g. setting the Budget and adopting the plans or strategies constituting the council's Policy Framework. For the majority of functions, it is a matter of local choice for the council whether they are exercised by councillors or delegated to officers.

This scheme delegates powers and duties in relation to Executive functions that are the responsibility of Leader and Cabinet Members. The scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation.

Where functions that are the responsibility of the Leader are delegated through Cabinet members to officers or other structures outside the Cabinet, the Leader will nevertheless remain accountable to the council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way the function is carried out, although the specific decision is the responsibility of the officer or other delegated body.

The Leader may make ad-hoc variations in relation to the scheme. Any variation affecting the generality of any delegation shall be made in writing. The variation shall be effective from the date the written notice is received by the Monitoring Officer.

The Monitoring Officer shall have the power, subject to notifying all elected councillors, to:

- (a) amend the scheme to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones
- (b) amend the Constitution to correct any typographical errors or inconsistencies subsequently identified

The scheme does not delegate to officers the following:

- (a) any matter expressly reserved to the Cabinet within its terms of reference or otherwise, by standing orders or financial regulations or withdrawn from delegation by this scheme or by the Cabinet or individual Cabinet member
- (b) the making of an order for the compulsory acquisition of land
- (c) the acquisition of land in advance of requirements
- (d) the adoption, amendment (other than minor amendments) or delegation of any strategic plan or policy
- (e) the incurring of 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
- (f) to carry out major highway creation or improvement works
- (g) to respond to planning consultations by government departments or statutory undertakers where objection or adverse comment is proposed to be made
- (h) to suspend local management from any school
- (i) to issue a public notice for any significant change to a school in terms of number of pupils, age range, type or status of school, closure or merger, or creation of a new school

- (j) the taking of decisions in contravention of any existing council policy

All delegated functions shall be deemed to be exercised on behalf and in the name of the council.

Certain Executive decisions taken by officers must be recorded and published, in accordance with the Protocol for Recording and Publishing Officer Decisions (see Part 5 Section 3).

### **General principles/common officer Executive delegations**

Chief Officers and their direct reports are authorised within their areas of responsibility, subject to the following conditions:

- (a) The Chief Executive will maintain and publish a list of services for which each Director is responsible, and in relation to which they have delegated powers under this scheme. The Chief Executive has authority to amend that list and this scheme, to reflect operational necessity and in order to deliver continually improving services.
- (b) Powers shall be exercised in accordance with the law, the council's procedure rules, financial regulations, contract procedure rules and any policies relevant to the functions delegated.
- (c) Chief Officers are empowered to:
  - (i) 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
  - (ii) implement manage and deliver Executive policies and decisions
  - (iii) make amendments to the structure of their department, subject to consultation with the relevant Cabinet member
  - (iv) make appointments to a post within their approved budget and take such decisions in relation to human resources as are appropriate for the proper management of the service
  - (v) implement the council's human resources policies as shall apply at any time
  - (vi) authorise officers to carry out the council's 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
  - (vii) 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
  - (viii) 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
  - (ix) authorise legal proceedings in respect of offences under acts, regulations, bylaws or orders within the remit of the service area, and with the approval of the Strategic Manager for Legal Services
- (d) Once a member-level decision has been taken, the implementation of that decision should be delegated to officers, so that multiple member decisions are not required in respect of the same matter
- (e) The fact that a function is delegated to an officer does not prevent that officer from referring any decision to the Cabinet or Cabinet member at their discretion, especially if the decision is controversial or of strategic importance

- (f) When exercising delegated powers, officers should consider referring a decision to Cabinet or the relevant Cabinet member where the decision:
  - (i) involves significant expenditure to the service budget, or wider council budget
  - (ii) affects the reputation or carries a significant risk for the service and/or council
  - (iii) is significant with regard to one or more divisions
  - (iv) impacts reputationally or financially on service users, partner organisations or committees outside the council
- (g) The Leader or the relevant Cabinet member may direct that a delegated Executive power should not be exercised by an officer but should instead be referred to the Cabinet, Cabinet member or relevant committee. Such direction should be exercised in consultation with the relevant Director.
- (h) Chief Officers have responsibility to report to Full Council, Cabinet, Cabinet member, the appropriate committee or relevant local councillors (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
- (i) Officers authorised to exercise delegated powers are required to keep councillors properly informed of activity arising within the scope of their delegations and to ensure a proper record of such activity is kept and available for inspection in accordance with the legislation
- (j) “Function” is construed broadly and includes the doing of anything that is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions
- (k) A Director 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 their behalf. A Director must maintain a list of all such authorisations, as part of a comprehensive service scheme of delegation
- (l) Officers exercising delegated powers related to financial matters (such as raising invoices, writing-off debts, paying invoices or disposing of assets) shall be aware at all times of the statutory responsibility of the Director of Finance under the Local Government Act 1972 and of the need to comply with the Financial Regulations (see Part 3 Section 19) and all the instructions and guidance issued by them and to seek their advice as necessary
- (m) If 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 authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing by the relevant Director, or in the event of a Director, by another Director
- (n) Any post specifically referred to below shall be deemed to include any successor post, or a post that includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded or discharging the functions of the post on an interim basis

### Specific Officer Delegations

The officer delegations (below) set out the officers empowered to undertake the specified Executive decisions or actions on behalf of the council:

| Post                            | Summary of Functions and Areas of Responsibility  |
|---------------------------------|---|
| <b>Chief Executive (Head of</b> | The Chief Executive holds the statutory designation of Head of Paid Service and, in addition to those functions listed below, is responsible for the following functions: |

| Post                 | Summary of Functions and Areas of Responsibility  |
|----------------------|---|
| <b>Paid Service)</b> | <ul style="list-style-type: none"> <li>(a) Overall corporate management and operational responsibility for all officers</li> <li>(b) Reviewing 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.</li> <li>(c) Determining the management structure and the deployment of staff</li> <li>(d) Ensuring: <ul style="list-style-type: none"> <li>(i) human resource management complies with current council policy and standards</li> <li>(ii) propriety and observance of codes of conduct by all council staff</li> <li>(iii) compliance with and observance of all established council policies</li> </ul> </li> <li>(e) Having all the powers of any other officer 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, e.g. the Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.</li> <li>(f) Reporting to Full Council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation, appointment and proper management of officers</li> <li>(g) Fostering a culture that demonstrates a positive outlook and continuous improvement</li> <li>(h) Managing the interface between elected councillors and officers to ensure effective delivery of the Vision and Corporate Plan.</li> <li>(i) Leading the medium-term budget strategy, change management and overall council performance.</li> <li>(j) Exercising the relevant functions of the Leader in relation to the overall strategic direction, policies and priorities of the Cabinet, including the overall corporate revenue and capital budget strategy and ensuring that appropriate systems are in place to assure the performance management of the authority</li> <li>(k) Overseeing the implementation of the council's policies and developing mechanisms to enable priorities to be set and choices to be exercised by elected councillors in the allocation of finance and other resources</li> <li>(l) Ensuring strategically led improvements in the quality and efficiency of service delivery and devising and maintaining systems to deliver good governance, including performance management, risk management and ethics/probity structures</li> <li>(m) Ensuring 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</li> <li>(n) Working 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.</li> <li>(o) Providing professional advice to all parties in the decision-making process</li> <li>(p) Maintaining a system of record keeping for all the council's decisions, together with the Monitoring Officer</li> <li>(q) Authorising urgent action between Cabinet meetings where necessary, in consultation with the Monitoring Officer, Chief Finance Officer, political groups,</li> </ul> |

| Post                                  | Summary of Functions and Areas of Responsibility   |
|---------------------------------------|--|
|                                       | <p>the Leader and/or relevant Cabinet members, and ensuring the chairman of the Corporate Scrutiny Committee is (where practicable) notified before the decision is made and then notified once the decision has been made</p> <ul style="list-style-type: none"> <li>(r) Authorising the acquisition of properties in accordance with the approved commercial property investment strategy, in consultation with the Chief Finance Officer and the relevant Cabinet member</li> <li>(s) Arranging for the council to be represented on partnership and external bodies as required by statute or the council</li> <li>(t) Ensuring that the council communicates with those who receive its services, its partners in service delivery and its various communities, explaining, interpreting, listening and consulting in a wide ranging and effective way</li> <li>(u) Leading and managing Emergency Management</li> <li>(v) Incurring expenditure in the event of a civil emergency</li> <li>(w) During the period between the date of retirement of councillors following council elections and the next Annual Meeting of the council, where a matter requires a decision (whether an Executive or a Non-Executive function), having consulted with the Leader-elect (when notified in writing) and such members of the council as they consider appropriate, make the decision and authorise on an exceptional basis the relevant action</li> <li>(x) Granting dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a councillor or officer taking such a decision</li> </ul> |
| <b>Assistant Chief Executive</b>      | <p>The Assistant Chief Executive acts as deputy to the Chief Executive and assists with the efficient and effective delivery of council business activity, including:</p> <ul style="list-style-type: none"> <li>(a) Strategically leading and managing a service portfolio that includes strategic planning, corporate communications, strategic partnerships and organisational intelligence.</li> <li>(b) Leading the development and approval of corporate strategies necessary to deliver the council's strategic priorities, in particular the One Public Service initiative, commerciality and income generation, housing and the Island Plan.</li> <li>(c) Leading and managing the implementation of a Core Strategy</li> </ul>   |
| <b>Director of Corporate Services</b> | <p>Acts as chief professional advisor to the Chief Executive, corporate management team and elected councillors on matters affecting the organisation within the corporate services portfolio of services, including:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Cabinet Member for Strategic Finance, Corporate Resources and Transformational Change in relation to their portfolio; the Deputy Leader and Cabinet Member for Community Safety and Digital Transformation in respect of the ICT elements of their portfolio; Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services for the Human Resources, Legal and Democratic Services elements of their portfolio; and the Cabinet Member for Strategic Finance, Corporate Resources and Transformational Change in respect of the procurement elements of their portfolio.</li> <li>(b) Leading and managing legal and democratic services; elections and land charges; human resources; health and safety; equality and diversity; information governance; procurement; ICT and digital services; workforce and organisational development and business centre (including council tax and</li> </ul>  |

| Post  | Summary of Functions and Areas of Responsibility   |
|---|--|
|   | <p>business rate administration); housing benefit; facilities management; payroll pensions and income and payments.</p> <p>(c) As chairman of the Procurement Board</p> <p>(d) As Returning Officer for local elections, Acting Returning Officer for parliamentary elections and Local Returning Officer for Police and Crime Commissioner elections (including the ability to appoint deputies for these roles)</p> <p>(e) As Electoral Registration Officer for the Isle of Wight</p>   |
| <p><b>Chief Finance Officer (Section 151 Officer)</b></p> | <p>The Chief Finance Officer is responsible for the financial affairs of the council in accordance with section 151 of the Local Government Act 1972, ensuring lawfulness and financial prudence of decision-making, including:</p> <p>(a) Exercising the relevant functions of the Deputy Leader and Cabinet Member for Resources in relation to their portfolio.</p> <p>(b) Acting as the council's Chief Finance Officer to ensure the proper administration of the council's financial affairs and that appropriate financial practices and procedures are in place to meet these requirements</p> <p>(c) After consulting with the Chief Executive and the Monitoring Officer, reporting to Full Council (or the Cabinet in relation to an Executive function) and the council's external auditor if any proposal, decision or course of action is unlawful, involves the incurring of unlawful expenditure or the use of inappropriate funds</p> <p>(d) Administration of the financial affairs of the council, including the provision of an Internal Audit function</p> <p>(e) Delivering a balanced budget and sustainable Medium Term Financial Strategy for the council</p> <p>(f) Monitoring the council's financial performance and advising the council of the robustness of its budgets and the adequacy of its reserves Promoting the development of improved financial practices, procedures, controls and business processes, to ensure the services enabled and delivered by the council continue to be affordable</p> <p>(g) Responsibility for the overall financial administration of the Isle of Wight Pension Fund</p> <p>(h) Ensuring all reports submitted to councillors for consideration meet the required quality of accuracy and assessment of the financial issues to be considered</p> <p>(i) Contributing to the corporate management of the council, in particular through the provision of professional financial advice</p> <p>(j) Providing 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 supporting and advising councillors and officers in their respective roles</p> <p>(k) Giving financial information to the media and members of the public and the community</p> |
| <p><b>Monitoring Officer</b></p>                          | <p>The Monitoring Officer undertakes the responsibilities defined in law and the Constitution, including:</p> <p>(a) Acting as the council's chief legal and governance advisor to ensure it operates lawfully and within the agreed Constitution</p>  |

| Post                              | Summary of Functions and Areas of Responsibility   |
|-----------------------------------|--|
|                                   | <ul style="list-style-type: none"> <li>(b) Maintaining an up-to-date version of the Constitution and ensuring it is widely available to councillors, staff and the public</li> <li>(c) Ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to Full Council (or to the Cabinet in relation to an Executive function) if any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration</li> <li>(d) Ensuring that all reports submitted to councillors for consideration meet the required quality of accuracy and assessment of the legal issues to be considered</li> <li>(e) Conducting investigations into alleged breaches of the Member Code of Conduct and arranging for such reports to be considered by the Appeals Committee, where appropriate</li> <li>(f) In consultation with an Independent Person, to deal with requests for dispensations relating to Disclosable Pecuniary Interests without the need for a meeting of the Appeals Committee, where appropriate</li> <li>(g) Advising whether Cabinet decisions are within the Policy Framework</li> <li>(h) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Policy Framework issues to all councillors</li> <li>(i) The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service</li> <li>(j) The Monitoring Officer Protocol attached to this Constitution sets out the statutory base of this position (see Part 5 Section 10)</li> </ul> |
| <b>Director of Neighbourhoods</b> | <p>Responsible for exercising the relevant functions of the Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services, the Cabinet Member for Community Protection, Regulatory Services and Waste, the Deputy Leader and Cabinet Member for Digital Transformation, Housing, Homelessness and Poverty and Cabinet Member for Infrastructure, Highways PFI and Transport in relation to their portfolio, and for leading and managing:</p> <ul style="list-style-type: none"> <li>(a) Commercial Services, including Recreation, Leisure, Public Spaces, Public Realm, Libraries, Registrars, and Rights of Way.</li> <li>(b) Environmental Health, Trading Standards, Licensing, Community Safety and Housing Renewals.</li> <li>(c) Highways and Transport, including the Highways PFI contract and Waste and Recycling.</li> </ul>   |
| <b>Director of Regeneration</b>   | <p>Responsible for exercising the relevant functions of the Cabinet Member for Levelling Up, Regeneration, Business Development and Tourism; the Cabinet Member for Planning and Enforcement; the Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services and the Cabinet Member for Infrastructure, Highways PFI and Transport in relation to their portfolios and for leading and managing:</p> <ul style="list-style-type: none"> <li>(a) On economy and tourism to develop and promote economic growth for the Island, including the attraction of inward Investment and development of commercial services</li> </ul>   |

| <b>Post</b>                            | <b>Summary of Functions and Areas of Responsibility</b>  |
|--|--|
|  | <p>(b) Planning Services, Planning Policy (with the exception of the adoption of a revised Core Strategy), AONB, Conservation, Ecology, Local Sustainable Transport Fund, Building Control and Lead Local Flood Authority.</p> <p>(c) Economic development, tourism and asset management.</p>  |
| <b>Director of Children's Services</b> | <p>Holds the statutory designation of Director of Children's Services with responsibility for discharging the statutory functions for Education and Children's Social Care (as defined in s.18(2) Children Act 2004) and the strategic delivery of all of the council's education and children's social care services, including:</p> <p>(a) Exercising the relevant functions of the Cabinet Member for Children's Services, Education and Lifelong Skills in relation to their portfolio</p> <p>(b) Providing strategic leadership and development of the local education and children's services sector.</p> <p>(c) 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>(d) Ensuring clear and effective arrangements to protect children and young people from harm, in accordance with the law</p> <p>(e) Ensuring 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>(f) Undertaking strategic needs assessments for children and their families with actual or potential needs across the local authority area in conjunction with the Director of Adult Social Care and Director of Public Health</p> <p>(g) Leading and managing 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> |
| <b>Director of Adult Social Care</b>   | <p>Undertakes the statutory Director of Adult Social Services role, including:</p> <p>(a) Exercising the relevant functions of the Cabinet Member for Adult Social Care and Public Health and Housing Needs in relation to their portfolio</p> <p>(b) Providing professional leadership for council staff and local partnerships in the provision of adult social care services (including operational housing)</p> <p>(c) 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</p> <p>(d) Undertaking strategic needs assessments for adults and families with actual or potential social care needs across the area, in conjunction with the Director of Children's Services and Director of Public Health</p> <p>(e) Ensuring clear and effective arrangements to assess and 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</p> <p>(f) Ensuring that Adult Services are integrated across the council, and that statutory partners, the local voluntary and community sector and service users</p>   |



| Post   | Summary of Functions and Areas of Responsibility   |
|--|--|
|  | <p>themselves are included in the scope of the council's planning, commissioning and delivery of Adult Services where appropriate</p>  |
| <p><b>Director of Public Health</b></p>      | <p>Provides strategic leadership for the delivery of the council's duties to improve public health and carries out public health functions under Schedule 1 of the National Health Service Act 2006 and subsequent regulations, including:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Cabinet Member for Adult Social Care and Public Health and Housing Needs in relation to their portfolio</li> <li>(b) Exercising the duty to take steps to improve the health of the people in the area</li> <li>(c) Exercising functions prescribed by Secretary of State in relation to dental public health</li> <li>(d) Exercising public health functions required to be carried out by regulations issued or delegated by the Secretary of State for health protection or health improvement</li> <li>(e) Leading the exercise of the council's functions in planning for, and responding to, emergencies that present a risk to public health.</li> <li>(f) Leading the production of the Joint Strategic Needs Assessment, Joint Strategy on Health and Wellbeing and delivering the annual public health report.</li> <li>(g) Exercising the duty to cooperate with the prison service with a view to improving, securing and maintaining the health of prisoners</li> <li>(h) Exercising functions under s.325 Criminal Justice Act 2003 (cooperating with 'responsible bodies' in relation to the assessment of risks posed by certain offenders)</li> <li>(i) Commissioning or ensure the provision of service that underpins public and health improvement</li> </ul> |
| <p><b>Chief Fire Officer<sup>5</sup></b></p> | <p>The Chief Fire Officer ensures that the council meets its legal responsibilities for an effective fire and rescue service to be provided across the Island, together with:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Deputy Leader and Cabinet Member for Community Protection, Regulatory Services and Waste in relation to their portfolio</li> <li>(b) The provision, training and equipping of the Isle of Wight Fire and Rescue Service to undertake; firefighting, protection of people and property from fire</li> <li>(c) Fire safety promotion, road traffic collision rescues and other emergency responses to civil emergencies</li> <li>(d) Leading on community safety and playing a major role in civil protection and ensuring that there is an integrated approach to handling civil emergencies</li> </ul>   |

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<sup>5</sup> Review once CFA established.

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## **20. Financial Regulations**

### **Purpose of Financial Regulations**

Financial Regulations are part of the range of internal control systems which the council puts in place to ensure that risks to the delivery of its objectives are minimised. They set out the roles and responsibilities of the Full Council, the Cabinet 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.

Schools with delegated budgets are subject to a separate framework of regulation.

The detailed [Financial Regulations](#) are approved by the Full Council and are subject to regular review.

### **Budget setting**

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 Cabinet, and after having regard to the results of stakeholder consultation.

Full Council may approve overall capital service allocations but leave the selection of individual schemes to the Cabinet.

Approval of revenue and capital budgets as above confers authority on the Cabinet, and/or Directors to spend up to the net sums specified for each of the services within their remit, as set out within the financial information system.

Changes to the budget may be agreed by Directors in consultation with Cabinet members and the Chief Finance Officer, provided that there is:

- (a) No resulting reduction in the general reserve
- (b) No material reduction in service levels
- (c) No resulting un-financed increase in commitments in future years

Full Council approval is required for other budget changes.

Unspent budgets may be carried forward into the next financial year with the approval of the Chief Finance Officer. Overspendings will be a first call against the following year's budget.

### **Duties and responsibilities of elected councillors**

The Cabinet 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 the Policy Framework. The Cabinet shall receive in-year budget monitoring information and ensures that any remedial action is taken.

The Scrutiny committees have a responsibility to review and assist with resolving the financial issues it regards as most benefiting from its input.

The Scrutiny committees will pursue work programmes developing specific policy and strategic solutions to longer term issues, including those with a financial context.

## **Duties and responsibilities of the Chief Finance Officer**

The Chief Finance Officer has particular statutory and common law responsibilities that are incorporated in the following:

- (a) proper administration of the council's financial affairs
- (b) setting and monitoring compliance with accounting and financial management procedures and standards
- (c) implementing the council's duty to maintain an effective and adequate internal audit
- (d) advising on the corporate financial position, including the robustness of the budget and the adequacy of reserves
- (e) giving financial advice on all reports considered by the Cabinet
- (f) determining financing of capital and revenue budget items in the best financial interests of the council
- (g) prescribing key financial controls and where necessary, the format of the council's financial records
- (h) providing financial information
- (i) co-ordinating forward revenue and capital plans and monitoring delivery
- (j) treasury management and all banking arrangements
- (k) arrangements for the disbursement of the council's payments in respect of creditors, staff and partners
- (l) arrangements for the collection of income due to the council as identified by Directors and their staff
- (m) overall financial administration of the Isle of Wight Pension Fund, including:
  - (i) contributing to the effective leadership of the pension fund, maintaining focus on its strategy through rigorous analysis and challenge
  - (ii) contributing to the effective management of the pension fund, including strategy implementation, cross organisational issues, integrated business and resource planning, risk management and performance management
  - (iii) supporting the effective governance of the pension fund, through development of corporate governance arrangements, risk management and reporting framework and corporate decision making arrangements
  - (iv) leading or promoting change programmes that impact upon the pension fund
  - (v) leading development of a medium term pension fund financial strategy and the annual budgeting process to ensure financial balance and a monitoring process to ensure its delivery
- (n) advising the Pension Fund Committee on its strategy development and implementation responsibilities
- (o) ensuring that members of the Pension Fund Committee have the financial capabilities necessary to effectively perform their own roles

## **Duties and responsibilities of Directors**

This section sets out the financial management responsibilities of Directors. Most or all tasks will be delegated to Assistant Directors and Strategic Managers 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, Directors remain jointly and severally responsible for compliance. Responsibilities include the following:

- (a) Deploying budget resources to deliver the council's objectives in the most economically advantageous way and reporting on performance as required.

- (b) 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 Finance Officer, corporate management team, and the Cabinet if appropriate, together with proposals for remedial action.
- (c) 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
- (d) 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.
- (e) 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
- (f) Maintaining accounting records and audit trails in a form acceptable to the Chief Finance Officer, together with a documented scheme of delegation and authorised signatories. Each account and budget head to have a named responsible officer.
- (g) Ensuring that financial systems in operation, and any changes thereto, are approved by the Chief Finance Officer, and that statutory taxation requirements are adhered to.
- (h) 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:
  - (i) Applying risk management techniques in order to reduce risk to optimal levels
  - (j) Keeping the Chief Finance Officer informed about existing, new or changing risks, both insurable and uninsurable
- (k) 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.
- (l) Applying the principles of segregation of duties, such that wherever possible, more than one individual is involved in managing the council's financial transactions

## **Other Policies and Guidance**

There are a number of policies and guidance notes that Directors are responsible for drawing to the attention of staff where necessary.

## 21. Contract Standing Orders

### KEY PRINCIPLES

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

### Compliance

- (a) 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.
- (b) These CSOs are applicable to both members and officers.
- (c) 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.
- (d) Every person involved in any procurement process has a responsibility to declare any links or personal interests that they may have with potential Suppliers.
- (e) Every contract to be entered into on behalf of the council must:
  - (i) be in accordance with the council's lawful functions and within the bounds of its statutory powers
  - (ii) comply with domestic legislation, common law and relevant EU Directives
  - (iii) be let with integrity and fairness throughout and with sufficient openness to engender public and market confidence in the procurement process
  - (iv) demonstrate that value for money is being obtained having regard to an appropriate and realistic balance between price, quality and service considerations
  - (v) 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
  - (vi) 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
- (f) In the event that there is any conflict or inconsistency between the provisions of the CSOs and any legal requirement, the legal requirement shall prevail.

### Scope and Application

- (a) The 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.
- (b) Apart from the exemptions listed below, the 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).
  - (c) The following are not caught by the requirements of the CSOs:
    - (i) contracts for permanent or fixed-term employment
    - (ii) contracts solely relating to the purchase or lease of land
    - (iii) transactions conducted by the Chief Finance Officer in respect of dealing in the money market or obtaining finance for the council
    - (iv) direct payments to customers following care assessment (for example, payments under Self-Directed Support or Personal Budgets)
    - (v) non-trade mandatory payments to third parties, e.g. insurance claims, pension payments, payments to public bodies, etc
    - (vi) fees for external auditors
    - (vii) contracts that can properly be regarded as a grant or internal service level agreements;
    - (viii) a declared emergency authorised by the Emergency Planning Officer and/or Duty Senior Officer

## **CONTRACT VALUE AND AGGREGATION**

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.

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.

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.

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 the CSOs, the Public Contracts Directive 2014/24/EU or the Public Contracts Regulations 2015.

## **LETTING CONTRACTS FOR GOODS, SERVICES AND WORKS**

### **Approvals**

- (a) The commencement of a procurement process for a contract is subject to the prior approval of the relevant officer who has the delegated authority to give such approval under the Constitution.
- (b) 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.
- (c) Where relevant, proportionate and timely consultation shall take place with elected councillors prior to commencing the procurement process.



- (d) 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 Cabinet member will be required and the Cabinet 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 Cabinet member and delegated officer.

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

- (a) 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.
- (b) For this purpose, officers may seek or accept advice from independent experts or authorities or from market participants. Such advice may be used in the planning and conduct of the procurement procedure, provided it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.
- (c) 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.
- (d) 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.

### **ADVERTISING AND COMPETITION REQUIREMENTS**

#### **Procurement Process for Spend between £0-£10,000**

- (a) 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.
- (b) 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.
- (c) The conditions of contract will be the council's standard terms and conditions, which are linked to the Purchase Order.
- (d) Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the Framework Agreement.
- (e) Where a relevant Approved List exists, at least one quote should be sought from the Suppliers included on it.
- (f) 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.

#### **Procurement Process for Spend between £10,001 - £25,000**

- (a) 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.

- (b) Officers must ensure they are conducting a like-for-like comparison and that quotes are evaluated on the same basis.
- (c) Officers should search the market for at least three suitable Suppliers. If they offer best value, officers should use Isle of Wight-based Suppliers.
- (d) The conditions of contract will be the council's standard terms and conditions, which are linked to the Purchase Order.
- (e) Officers may seek to use a suitable Framework Agreement. Any competition shall be conducted in accordance with the competition rules of the Framework Agreement.
- (f) Where a relevant Approved List exists, at least three quotes should be sought from the Suppliers included on it.
- (g) 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.

### **Procurement Process for Spend between Spend £25,001 - £100,000**

- (a) 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.
- (b) The RFQ process must be run using the Open Procedure, i.e. the use of a Pre-Qualification Questionnaire is prohibited.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) Where a relevant Approved List exists, a minimum of three written quotes should be sought from the Suppliers included on it.

- (k) In cases where it is impracticable to follow the RFQ process, the officer may seek a waiver (see below).

### **Procurement Process for Spend between Spend £100,001 – Relevant PCR15 Threshold**

- (a) Where the evidence based estimated value of a proposed contract (including all extensions) exceeds £100,001 but is less than the relevant PCR15 threshold, the officer must notify the Procurement Team who will co-ordinate the Invitation to Tender (ITT) process in conjunction with the Officer.
- (b) The ITT process must be run using the Open Procedure, i.e. the use of a Pre-Qualification Questionnaire is prohibited.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) Where a relevant Approved List exists, a minimum of five written tenders should be sought from the Suppliers included on it.
- (k) In cases where it is impracticable to follow the ITT process, the officer may seek a waiver (see below).

### **Procurement Process for Spend above Relevant PCR15 Threshold**

- (a) Where the evidence based estimated value of a proposed contract is in excess of the relevant PCR15 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 (as amended and superseded from time to time).
- (b) The procurement process shall be run using the council's e-tendering system and adverts must be placed on the Contracts Finder website, the Official Journal of the

European Union (OJEU) or subsequent replacement system, and consideration should be made to placing an advert in two industry publications.

- (c) 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.

## **PROCEDURE ON RECEIPT OF QUOTES AND TENDERS**

- (a) All quotes and tenders invited for contracts over £25,000 must be returned via the council's e-tendering portal and remain unopened and anonymous until the closing time and date for the receipt of responses.
- (b) The only exception to this 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.
- (c) 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.

## **Evaluation**

- (a) 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.
- (b) 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.
- (c) All quotes and tenders shall be evaluated in accordance with the designated evaluation criteria set out in the RFQ or ITT document.
- (d) For tenders invited for contracts over £100,000, officers must appoint an Evaluation Panel made up of council officers and stakeholders (where appropriate) who have sufficient knowledge of the contract requirements. The Procurement Team will act as scrutiniser.

## **Acceptance and Award of Quotes and Tenders**

- (a) Prior to awarding a contract, the officer must ensure all necessary consents, permissions or approvals required by the council's Constitution or otherwise have been obtained.
- (b) Notification of the award decision and feedback for the unsuccessful Suppliers must be issued using the e-tendering portal.
- (c) 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 PCR15 threshold, a contract award notice must also be placed in the OJEU or subsequent replacement system.
- (d) Where the contract value is above the relevant PCR15 threshold, it shall be awarded in accordance with the Public Contracts Regulations 2015 (as amended and superseded) and in particular the requirements relating to a standstill period prior to the contract being entered into.
- (e) All contracts made on behalf of the council must be in writing and executed in accordance with the CSOs and the council's Constitution.

- (f) 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 Strategic Manager for Legal Services or an officer authorised by the holder of that post.
- (g) The signed contract shall be held in the council's Contract Store.
- (h) The contract shall be registered on the council's Contracts Database.

Please see the table below for a summary of the procurement thresholds and the associated processes.

## **CORPORATE CONTRACTS**

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.

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. Officers must consult with the council's contracts lawyer to determine the conditions of contract to be used.

## **CONTRACT VARIATIONS**

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.

Contracts must not be varied if a variation is not expressly permitted by the contract.

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.

If the variation exceeds these thresholds; there have been cumulative variations to this value; 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 Procurement Board.

All contract variations should be kept with the original contract in the Contract Store and be reflected on the Contracts Database.

Officers must adhere to the Public Contracts Regulations 2015 and consider whether a variation is of such magnitude that a new contract is required.

## **SOCIAL VALUE**

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 PCR15 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.

Where appropriate, social value will be evaluated as part of the tender award criteria.

These requirements must not override the fundamental competition provisions that prohibit any discriminatory measures in favour of local suppliers.

## **SUSTAINABILITY**

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

## **EQUALITY AND DIVERSITY**

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

- (a) seek information on a Supplier's equality policies and practices and evaluate this to help short list suitable Suppliers;
- (b) include equality clauses in contracts to ensure Suppliers meet relevant statutory duties;
- (c) encourage small and medium enterprises, minority and voluntary groups to tender for suitable contracts and create evaluation criteria that do not disadvantage these groups;
- (d) have due regard to the Equality Act 2010.

## **WAIVERS**

Waivers of the 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 the CSOs and cannot be given if they would contravene the Public Contracts Regulations 2015 or any other applicable legislation.

Any of the requirements of these CSOs may be waived in an individual case by the Director of Corporate Services with advice from the Procurement Board, or any officer of the Procurement Board as delegated by the Director of Corporate Services.

A request for the issue of a waiver must be made in writing, using the prescribed form. 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.

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.

Where a contract has been awarded following the approval of a waiver, the officer shall register the contract on the council's Contracts Database. No waiver is granted retrospectively, unless in exceptional circumstances at the discretion of the Procurement Board.

## **COLLABORATIVE WORKING**

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.

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 the CSOs) will be deemed to comply with the CSOs and no exemption will be required.

| Est. Total Contract Value (incl. 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 using a procurement card</li> <li>• Conditions of contract will be standard IWC Ts and Cs 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> <li>• Officers must ensure that all Contracts within this threshold are entered into the Contracts Database</li> </ul>  |
| <b>£10,001 - £25,000</b>                                | IWC Contract Standing Orders | Seek minimum of 3 written quotes identified following market research or use a suitable/compliant Framework Agreement 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 Ts and Cs 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 able 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 demonstrate that they have achieved value for money and all quote comparisons must be on the same basis</li> <li>• The setting up of a Framework Agreement or Approved List must</li> </ul> |

|  |                                   |   |  |  |
|--|-----------------------------------|---|--|--|
|  |                                   |   |  | <p>be done in conjunction with the Procurement Team</p> <ul style="list-style-type: none"> <li>Officers must ensure that all Contracts within this threshold are entered into the Contracts Database</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 through the council's e-tendering system and on Contracts Finder website                                 | <ul style="list-style-type: none"> <li>Conditions of contract will be standard IWC Ts and Cs with any special terms included where required</li> <li>Suppliers should be given a minimum return period of 14 days to submit quotes, if reduced must be approved by Procurement Team</li> <li>The procurement process will be co-ordinated by the Procurement Team through the council's e-tendering system</li> <li>Identify stakeholders and consult where appropriate</li> </ul> |
| <b>£100,001</b> to the relevant PCR15 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 through the council's e-tendering system, Contracts Finder website and consider one industry publication | <ul style="list-style-type: none"> <li>Conditions of contract will be the standard IWC Ts and Cs, or bespoke, at the discretion of the Contracts lawyer</li> <li>Suppliers should be given a minimum return period of 21 days to submit quotes</li> <li>The procurement process will be co-ordinated by the Procurement Team through the council's e-tendering system</li> <li>Identify stakeholders and consult where appropriate</li> </ul>                                      |
| <b>£4,733,252</b> and above for works contracts<br><b>£663,540</b> and above | Public Contracts Regulations 2015 | Invitation to tender process in accordance with Public Contracts Regulations 2015   | Advertise through the council's e-tendering system, Contracts Finder website, the                                  | <ul style="list-style-type: none"> <li>Conditions of contract will be the standard IWC Ts and Cs, or bespoke, at the discretion of the Contracts lawyer</li> <li>All procurements must be conducted in accordance with the Public Contracts Regulations 2015</li> </ul>  |



|  |  |  |   |  |
|--|--|--|---|--|
| <p>for “light touch” contracts</p> <p><b>£189,330</b> and above for goods and services contracts</p> |  |  | <p>Official Journal of the European Union or subsequent replacement system, and two industry publications</p> | <ul style="list-style-type: none"> <li>• The procurement process will be co-ordinated by the Procurement Team through the council’s e-tendering system</li> <li>• Identify stakeholders and consult where appropriate</li> <li>• If the contract value is over £1.5m, consultation with the relevant Cabinet Member is required</li> </ul> |
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# **PART 4A – PROCEDURE RULES GOVERNING HOW FULL COUNCIL OPERATES**

## **1. Annual Meetings**

### **Timing and business**

In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors (see Part 2 – Section 2). In any other year, the annual meeting will take place in May.

The Annual Meeting will:

- (a) elect a person to preside if the chairman of council is not present
- (b) elect the Chairman of the Council
- (c) elect the Vice Chairman of the Council
- (d) approve the minutes of the last meeting
- (e) receive any declarations of interest from members
- (f) approve a programme of Ordinary Meetings of the Full Council for the year
- (g) elect the Leader (in a year when there is an ordinary election of councillors only)
- (h) appoint at least one Overview and Scrutiny Committee and such other committees as the council considers appropriate
- (i) decide the size and terms of reference for those committees
- (j) appoint the chairman and vice chairman of the Corporate Scrutiny Committee and the chairman and vice chairmen of any other committees or sub-committees appointed by council
- (k) receive nominations of councillors to serve on outside bodies that are required to be appointed by the council
- (l) formally adopt a Members' Allowances Scheme
- (m) review the representation of different political groups on committees and sub-committees
- (n) receive any announcements from the chairman and/or Head of Paid Service
- (o) receive Leader's annual update report, except in an election year, if they are not re-elected
- (p) hold members' question time of the Leader
- (q) consider any business set out in the notice convening the meeting

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.

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## 2. Ordinary Meetings

### Timing and business

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 Monitoring Officer.

Any meeting of Full Council (except for the Budget Meeting) will end after three hours of the advertised start time (usually starts 6pm), with no ability to extend. Where it is the Budget Meeting of Full Council, the meeting will end after four hours of the advertised start time (usually starts 5pm), with no ability to extend. Any remaining items of business, at the chairman's discretion, will either be referred to an Extraordinary Meeting or to the next Ordinary Meeting.

### Ordinary meetings will:

- (a) elect a person to preside if the chairman and vice chairman are not present
- (b) approve the minutes of the last meeting
- (c) receive any declarations of interest from members
- (d) 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
- (e) Youth Council questions. Such questions to be within the scope of questions set out in Part 4B rule 15 (Questions by Members of the Public)
- (f) consider any petitions submitted in accordance with the Petition Scheme (see Part 4C)
- (g) receive any announcements from the chairman or Head of Paid Service (total period for announcements shall not exceed 15 minutes)
- (h) receive the Leader's update report
- (i) deal with any business from the last council meeting
- (j) receive recommendations from the Cabinet and the council's committees or boards
- (k) receive reports about, and receive questions and answers on, the business of external organisations
- (l) consider motions\*
- (m) hold members' question time of the Leader
- (n) consider any other business specified in the summons to the meeting\*

\* these items can be considered alongside each other, when appropriate.

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### **3. Budget Meetings**

In addition to the items listed for Ordinary Meetings above, Budget meetings will consider the process for moving, debating, amending and voting on the Budget options, as follows:

- (a) The Leader will be asked to move (with no debate at this stage) all approved Budget proposals that have been submitted, and these will be seconded.
- (b) In order to be approved, all alternative Budget proposals that any group or councillor wishes to be considered must be provided in final form, following prior consultation and written approval of the Chief Finance Officer, five clear working days in advance of the Budget meeting.
- (c) Any submissions not received within five clear working days of the budget council meeting will not be allowed.
- (d) Any submissions not prepared in a form acceptable to the Chief Finance Officer as being capable of being adopted by the council as a lawful budget will not be allowed.
- (e) Full Council will then debate all the budget options as one debate, with the Leader speaking first and then the leaders (or their nominees) of each political group will be invited to speak for 15 minutes each. The order for speeches will be the order in which any alternative budgets were submitted to the Chief Finance Officer and then at the discretion of the chairman.
- (f) Once each group leader (or nominee) has had the opportunity to speak, then any other councillor may request to speak for up to three minutes each.
- (g) At the end of the debate, before the votes are taken, each group leader (or nominee) will be invited in reverse order to sum up for up to five minutes each.
- (h) The Leader will then be invited to formally move their recommended Budget, and this will be seconded. Those councillors who submitted alternative Budget proposals will then 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.
- (i) The process detailed in paragraph (h) will continue until all Budget proposals have been considered.
- (j) Then the council will vote on the substantive budget recommendation (i.e. that moved by the Leader, including any amendments that the council might have agreed).

#### **Voting on Budget and Council Tax resolutions**

Any vote (including procedural and on amendments) relating to budget setting and council tax decisions made by Full Council must be undertaken by a named vote.

Section 106 of the Local Government Finance Act 1992 bars a councillor from voting on the council's budget if they have an outstanding council tax debt of over two months. If a councillor is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.

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#### 4. Extraordinary Meetings

A request may be made to call an Extraordinary Meeting of Full Council by:

- (a) the Full Council by resolution
- (b) the Chairman of the Council
- (c) the Monitoring Officer or
- (d) any five members of the council if they have signed a requisition presented to the Chairman of the Council and they have refused to call a meeting, or have failed to call a meeting within seven days of the presentation of the requisition

The requisition must specify by motion, or by report from officers, the issue to be considered at the meeting.

When considering a requisition, the chairman shall decide, in consultation with the Chief Executive and Monitoring Officer, whether to call the Extraordinary Meeting on the same date as the next scheduled Ordinary Meeting of the council or on an earlier date in exceptional circumstances.

Among the factors that shall be taken into account by the chairman when deciding are:

- (a) whether the subject matter of the requisition is a single, major issue
- (b) whether the subject matter was genuinely unforeseen at the time of the last meeting
- (c) whether any significant decision to which the subject matter relates has yet to be taken and, if so, any associated deadlines
- (d) the degree of urgency, if any, and the consequential ability to have a matter considered by council before it is too late to alter a course of events (the greater the urgency, the earlier the meeting should be held)
- (e) whether the issue has been the subject of Call-In in the previous six months
- (f) subject to the above, administrative convenience/inconvenience and maximising the attendance of councillors.

Once the decision is made, the chairman should keep their decision under review in case of any substantial changes in circumstances that might require or justify a meeting to be called earlier.

The business to be transacted at an Extraordinary Meeting shall be restricted to the matters for which the meeting was called as set out in the motion, and no other business shall be considered.

The chairman can amend the order of business on the agenda and at the meeting as they see fit.

There are also meetings that may be convened for a specific statutory purpose (such as, for example, the appointment of honorary aldermen and honorary alderwomen).

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## **5. Notice of and Summons to Meetings**

Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information rules (see Part 5 Section 2).

At least five clear working days before a meeting, the Monitoring Officer will send a summons for that meeting to every member of the council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

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## 6. Chairman of the Council

At its Annual Meeting, Full Council elects one of its members (other than the Leader or a Cabinet Member) to be Chairman of the Council. No councillor can hold the post of Chairman or Vice Chairman of the Council for more than one year unless the council resolves to appoint a councillor for a second year. A chairman cannot preside at their own election.

In the absence of both the Chairman and Vice Chairman, members will elect a chairman for the meeting concerned by a simple majority vote. The person presiding at the meeting may exercise any power or duty of the chairman for that meeting. In so doing, they will act apolitically, impartially and in the interests of the whole council.

The Chairman has the following responsibilities:

- (a) uphold and promote the purposes of the Constitution and, after receiving advice, interpret the Constitution when necessary
- (b) promote public involvement in the council's activities
- (c) represent the council as its civic head on ceremonial occasions at Island, national and international events
- (d) preside over meetings of Full Council so that its business is carried out efficiently and regarding the rights of councillors and the interests of the community
- (e) ensure that meetings of Full Council are properly constituted and that a quorum is present
- (f) ensure that Full Council meetings are a forum for the debate of matters of concern to the local community
- (g) preserve order in the conduct of those present
- (h) confine discussion within the scope of the meeting and reasonable limits to time
- (i) decide whether proposed motions and amendments are in order
- (j) decide points of order and other incidental questions which require decision
- (k) ascertain the sense of the meeting by:
  - (i) putting relevant questions to the meeting and taking a vote thereon
  - (ii) declaring the result
  - (iii) causing a ballot to be taken if demanded
- (l) approve the draft minutes or other record of proceedings
- (m) adjourn the meeting with the consent of those present where circumstances justify it
- (n) declare the meeting closed when its business is completed

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## **7. Quorum**

The quorum for a meeting of Full Council is 10 councillors. During the meeting, if the chairman counts the councillors 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 they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

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## **8. Questions by Members**

### **Questions raised following the Leader's update report**

The Leader provides an update report to the council for up to five minutes, following which a councillor may ask a question of the Leader. Such questions will be restricted to matters arising from the Leader's report, and the chairman has the discretion to rule a question out of order if it falls outside this scope. Members' questions on the Leader's report and any answers thereto are limited to 15 minutes in total.

To receive a reply to questions arising from the Leader's update report, no notice is required to be given. However, each councillor shall be restricted to one question and no supplemental.

If all councillors who have indicated a wish to ask a question have done so and sufficient time remains within the allocated 15 minutes, councillors may put a second question.

### **Members' questions to the Leader and to any other Cabinet member**

A member may also ask questions of the Leader during the agenda item on questions to the Leader and to any other Cabinet member. Questions to the Leader and to any other Cabinet member and any answers provided under this agenda item are limited to 30 minutes in total. 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.

To receive a reply to questions asked during questions to the Leader or any other Cabinet member, councillors must deliver their question in writing or by email to Democratic Services no earlier than four weeks and no later than four working days prior to the start of the meeting. Any written question received during this timeframe will receive a written response and be published.

### **Scope of questions**

The Monitoring Officer will reject a question if it:

- (a) is not related to policy or budget issues
- (b) is not about a matter for which the council has a responsibility, or which affects the Isle of Wight
- (c) is defamatory, frivolous or offensive
- (d) is not a question but a statement
- (e) relates to an individual or the questioner's own particular circumstances
- (f) is substantially the same as a question which has been put at a meeting of Full Council, in the past six months
- (g) requires the disclosure of confidential or exempt information
- (h) names or identifies individual service users, members of staff or members/staff of partner agencies
- (i) is not submitted within the requisite timeframe

### **Record of written questions**

Democratic Services will give a unique reference number to each written question accepted 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 councillors. Following the meeting, the answers will be recorded adjacent to the question in the electronic file. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt, this rule does not apply to oral questions asked at the meeting.

### **Asking written questions at the meeting**

The chairman will invite the councillor to ask their written question as submitted. The question shall be put and answered by the relevant Cabinet member without debate. The answer to a councillor's question may be given orally or in writing.

### **Supplemental question**

With the exception of questions raised following the Leader's update report, a councillor shall be allowed one supplementary question to the Cabinet member to whom the question was directed, provided it is relevant to the original question and does not introduce a new subject matter.

### **Written answers**

Except in relation to members' questions to the Leader, where a reply cannot be provided at the meeting and a written response is promised, then such a written response should be provided within 15 clear working days. Where a reply cannot be provided to a question submitted for question time to the Leader, these shall be provided within five clear working days. For the avoidance of doubt, this rule does not apply to oral questions or questions raised following the Leader's update report.

### **Reference of a question to the Cabinet, or any other committee or sub-committee**

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

## **9. Motions on Notice**

### **Notice**

Except for motions that can be moved without notice under Part 4B Section 7, written notice of every motion, signed by the councillor submitting the notice, must be delivered to Democratic Services not earlier than 20 clear working days and not later than 8 clear working days before the date of the meeting. Delivery can be by electronic means provided that it has been sent by the councillor concerned.

No more than one motion can be submitted by a councillor for each meeting.

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

Motions for which notice has been given will be listed on the agenda in the order in which notice was received. The total time allowed at each meeting for motions shall be one hour.

### **Scope**

Each motion must be clear, succinct, with no lengthy preamble, must clearly identify the matter to be debated and have a clear question to be put. Motions must:

- (a) be about matters for which the council has a responsibility; and/or
- (b) significantly affect the Island; and
- (c) be about a single issue.

Any amendments to motions on notice must comply with (a)-(c) above and the procedure rule on amendments in Part 4B Section 9.

Any motion the subject matter of which comes within the province of the Cabinet or any committee or board may, after it has been moved and on the decision of the chairman, be:

- (a) referred without discussion to the Cabinet or relevant committee or board; or
- (b) referred without discussion to such other meeting as the chairman may decide: or
- (c) dealt with at the meeting at which it is moved.

For the avoidance of doubt, there is no facility to defer a motion, other than if the time allocated to debate submitted motions has expired. At which point, all extant motions will be listed in advance of any other motions submitted to the next Ordinary Meeting of the council.

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## **10. Motions on Expenditure**

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

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## **11. Political Assistants**

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

- (a) There shall be no appointment of any political assistant to a political group unless Full Council has allocated such a post to each of the political groups that qualify for one
- (b) No political assistant will be allocated to a political group that does not qualify for one
- (c) No more than one political assistant will be allocated to a political group
- (d) the prohibition on the involvement of members of the council in the appointment of officers does not apply to the appointment of political assistants

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## **PART 4B – PROCEDURE RULES GOVERNING HOW FULL COUNCIL, CABINET, COMMITTEES, SUB-COMMITTEES AND BOARDS OPERATE**

*(References to “committee” include Full Council, Cabinet, committees, sub-committees and boards)*

### **1. Election of Chairman and Vice-Chairman**

Unless Full Council has resolved otherwise, each committee shall elect a chairman and vice-chairman at its first meeting after the Annual Meeting of the council immediately following an election of all councillors.

Chairmen and vice chairmen remain in office until the election of their successors, they become disqualified, resign or the council or committee votes their removal. In the latter two cases, an election for their successor should be held as soon as possible.

If neither the chairman or vice-chairman is present or able to preside, the council or committee shall elect another councillor to preside for that meeting or item.

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## **2. Minutes**

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.

The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

The Chairman will initial each page and sign the minutes of the proceedings at the next suitable meeting.

There is no requirement to sign the minutes of a previous meeting at an Extraordinary Meeting of the council.

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### **3. Record of Attendance**

All councillors present during the whole or part of a meeting must record their attendance before the conclusion of every meeting.

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#### **4. Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information rules (see Part 5 Section 2) or Part 4B Section 16 (disturbance by public).

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## **5. Substitutes**

With the exception of the Cabinet (in respect of which no substitute or co-opted members are permitted) and unless otherwise provided in a committee's terms of reference, if a councillor cannot attend a meeting of a committee, their political group may nominate a substitute from the same political group.

Political groups should only nominate councillors as substitutes if they have had relevant training in the work of the committee.

No member of the Cabinet may be substituted to an overview and scrutiny committee.

Substitute membership will only apply to elected councillors and not to co-opted members.

Written notice of substitute councillors must be given to the Members Support Manager (democratic.services@iow.gov.uk) before the meeting begins and will be announced at the beginning of the meeting. Once the meeting has been informed of the appointment of a substitute, the original councillor may not resume membership of the committee until after the conclusion of the meeting.

Substitutes have all the powers and duties of any ordinary member of the committee.

A substitute who attends in the absence of the chairman or vice-chairman may not undertake the role of chairman or vice-chairman unless appointed in that capacity by the committee.

### **Substitute members on Planning Committee**

In addition to the above, the following provisions apply to substitutes on the Planning Committee.

No more than three substitutes may be appointed for each political group.

Attendance of a substitute at a forthcoming meeting must be notified in writing to the Members Support Manager no later than two working days before the scheduled Planning Committee site visits.

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## **6. Duration of Meetings**

With the exception of Full Council, all meetings will end after three hours of the advertised start time unless at least half the councillors in attendance vote to extend the meeting.

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 otherwise fall for not being considered.

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## 7. Motions Without Notice

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved
- (b) in relation to the accuracy of the minutes
- (c) to change the order of business in the agenda
- (d) to refer something to an appropriate body or individual
- (e) to appoint a committee or councillor arising from an item on the summons for the meeting
- (f) to receive reports or adoption of recommendations of the Cabinet, committees or officers and any resolutions following from them
- (g) to extend the time limit for speeches
- (h) to withdraw a motion
- (i) to amend a motion
- (j) to proceed to the next business
- (k) that the question now be put
- (l) to adjourn a debate
- (m) to adjourn a meeting
- (n) to suspend a particular procedure rule (except Sections 10 and 18)
- (o) to exclude the public and press in accordance with the Access to Information rules (see Part 5 Section 2)
- (p) to not hear further a councillor named under Section 9 or to exclude them from the meeting
- (q) to give the consent of the council where its consent is required by this Constitution

The chairman, with or without notice, may propose a resolution on any subject they may deem a matter of urgency and which is within the functions or powers of the meeting.

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## **8. Previous Decisions and Motions (applies to Full Council and Cabinet only)**

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

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

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

A motion or amendment in similar terms to, or which has the same effect as, one that has been rejected at a meeting within the previous 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.

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.

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## **9. Rules of Debate**

### **General**

Debates at meetings of the Cabinet, committees, sub-committees and boards may be less formal than debates at Full Council, which will always follow the procedure below. 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.

### **Speaking at meetings**

When a councillor speaks at a meeting, they will remain seated and address the meeting through the chair. If more than one councillor wishes to speak, the chairman will ask one to speak and others must remain silent.

### **Chairman standing**

When the chairman stands during a debate, any member speaking at the time must stop.

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

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.

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

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.

### **General disturbance**

If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as they think necessary.

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

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

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

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

### **Secunder's speech**

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

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

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 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 for a further period of five minutes in replying at the end of the debate.

### **When a member may speak again**

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

- (a) to speak once on an amendment moved by another member
- (b) to move a further amendment if the motion has been amended since they last spoke
- (c) to speak on the main issue when their first speech was on a moved amendment
- (d) in exercise of a right of reply
- (e) on a point of order
- (f) by way of personal explanation

### **Amendments to motions**

An amendment to a motion must:

- (a) be relevant to and intelligible with the motion
- (b) either add or delete a word or words
- (c) not introduce a new topic
- (d) not negate the motion
- (e) be worded so that, if it is agreed by the council, it can be passed as a valid resolution
- (f) not be, in the opinion of the Monitoring Officer, defamatory, frivolous, offensive or otherwise out of order

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.

The text of any amendment must be given to the chairman. If it is not they may rule that it falls.

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

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.

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.

### **Alteration of motion**

A member may alter a motion they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. Only alterations that could be made as an amendment may be made.

### **Withdrawal of motion**

A member may withdraw a motion they have 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.

### **Right of reply**

The mover of a motion has a right of reply at the end of the debate on the motion, immediately before it is put to the vote.

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.

The mover of the amendment has no right of reply to the debate on their amendment.

### **Procedural motions**

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

- (a) to withdraw a motion
- (b) to amend a motion
- (c) to exclude the public and press in accordance with the Access to Information rules (see Part 5 Section 2)
- (d) to not hear further a member named under Section 9 or to exclude them from the meeting

### **Closure motions**

A member may move, without comment, the following motions at the end of a speech of another member:

- (a) to proceed to the next business
- (b) that the question now be put
- (c) to adjourn a debate
- (d) to adjourn a meeting

If a motion to proceed to next business is seconded, the chairman shall immediately put this 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.

If a motion that the question now be put is seconded and the chairman thinks the item has been sufficiently discussed, then the chairman shall immediately put this to the vote. If carried, the chairman will give the mover of the original motion a right of reply and then immediately put the substantive motion to the vote. If the chairman is not satisfied that the item has been sufficiently discussed, then they will reject the procedural motion and the item will be further debated.

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, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **Point of order**

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 procedure rules or the law. The member must indicate the rule or point of law and the way in which they consider it has been broken. The ruling of the chairman on the matter will be final.

### **Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member, which may appear to have been

misunderstood in the present debate. The ruling of the chairman on the admissibility of a personal explanation will be final.

**Non-members invited to speak**

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.

## **10. Voting**

### **Majority**

Unless the Constitution or the law 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 is put.

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.

### **Named voting**

Votes on all matters other than budget setting and council tax will be by a show of hands or, if there is no dissent, by affirmation of the meeting, unless four members present at the meeting demand, before the vote is taken, that a named vote be taken. A named vote shall not be made on procedural decisions.

The procedure to be followed for named votes is that the chairman will ask the Monitoring Officer to call out the names of each member present. When their name is called, each member will say out loud whether they are voting for, against or abstaining on the item. These will then be counted and recorded. 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.

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

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

### **Voting procedure for appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the fewest 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.

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## **11. Rights to Attend and Speak**

Any member of the council may attend any meeting of a committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the chairman (such consent to be sought before the meeting and should not normally be withheld).

If a committee is considering an item of business in private that relates to the personal or financial affairs of an individual employee or member of the public, it may resolve to exclude from the meeting any member who is not a member of the committee. Before doing so, a member representing a member of the public should be given the opportunity to speak.

To ensure a fair and proper debate, the chairman may:

- (a) prevent any member from speaking more than once on any item, motion or amendment
- (b) require a member to cease speaking if they have spoken for more than five minutes

Members of a committee who have voting rights on that committee but are not members of the council, may propose or second motions and amendments as if they were members of the council.

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## **12. Members' Interests**

### **Disclosable Pecuniary Interests**

A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:

- (a) disclose the interest
- (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
- (c) not participate in any discussion of, or vote taken on, the matter at the meeting
- (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered
- (e) not seek improperly to influence a decision about that business

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.

### **Personal Interests**

A member shall disclose a Personal Interest at a meeting where they consider that interest to be relevant to an item of business 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.

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 it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close friend or a family member). In that case, the member should exclude themselves from the meeting.

The Chairman may request that a member declare a Disclosable Pecuniary Interest or a close Personal Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Member Code of Conduct and/or this procedure rule are being breached.

Where a member with a Disclosable Pecuniary Interest or close Personal Interest in a matter under discussion (unless a dispensation has been granted) chooses to participate in the discussion and vote, the chairman will refuse to count the 'vote' of the member concerned, as it will have been cast improperly and should not be considered to be a vote at all.

Where a Disclosable Pecuniary Interest or a Personal Interest has been agreed by the Monitoring Officer as being a Sensitive Interest (one where disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation), the Member need only disclose the existence of the interest but not its nature.

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### **13. Party Whip**

Any instruction given by or on behalf of a political group to any member of that group as to how they should speak or vote on any matter, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner, shall be notified to the Monitoring Officer by the group before the debate on that item commences and recorded in the minutes.

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## **14. Questions by Members**

### **General**

At Cabinet meetings, members of the council may ask questions about budget and policy at a strategic level, and will be given an opportunity to speak on each item before the vote is taken.

In addition, a councillor may ask a question at a committee meeting, except that questions may not be asked at meetings of the Planning Committee, Appeals Committee, Licensing Committee or Appointments Committee that relate to items on the agenda for that meeting.

### **Notice of written questions**

To guarantee a reply, members must submit their question in writing or by email to the Clerk no earlier than four weeks and no later than 48 hours (not including weekends or bank holidays) prior to the start of the meeting. Any written question received by the deadline will receive a written response.

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.

### **Scope of questions**

The Monitoring Officer will reject a question if it:

- (a) is not related to policy or budget issues
- (b) is not about a matter for which the council has a responsibility, or which affects the Isle of Wight
- (c) is defamatory, frivolous or offensive
- (d) is not a question but a statement
- (e) relates to an individual or the questioner's own particular circumstances
- (f) is substantially the same as a question which has been put at a meeting of the committee in the past six months
- (g) requires the disclosure of confidential or exempt information
- (h) names or identifies individual service users, members of staff or members/staff of partner agencies
- (i) is not submitted within the requisite timeframe

### **Record of written questions**

Democratic Services will give a unique reference number to each written question received within the required notice period 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. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

### **Asking written questions at the meeting**

The question shall be put to and answered by the relevant member of the committee without discussion. The answer to a member's question may be given orally or in writing.

## **Oral questions**

In addition to the above, councillors may ask oral questions of the committee without any notice. The period allowed for these questions and answers shall be 10 minutes. The minutes of the meeting will record who asked an oral question, the subject matter, the councillor who responded and the answer.

The chairman may ask for any oral question to be submitted in writing.

## **Supplemental question**

The councillor shall be allowed one further supplementary question provided it is relevant to the original question and does not introduce a new subject matter.

## **Written answers**

Any written question that 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.

## **Declined questions**

If, in the view of the chairman, the question asked (either in writing or orally) is not within the remit of the meeting, they 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) or that the question be directed to the relevant Cabinet member or other committee outside the meeting. Where the chairman so directs for oral questions the questioner shall submit the question in writing.

## **15. Questions by Members of the Public**

Members of the public may ask a question at all Ordinary Meetings of Full Council, Cabinet and 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, Appeals Committee, Licensing Committee or Appointment Committee that relate to items on the agenda for that meeting.

The total time set aside for such questions and answers at Full Council and Cabinet 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.

For all other committees the maximum time for public questions (written and oral) will be 15 minutes.

No written question exceeding 150 words will be allowed. Questions will usually be answered by either the Leader or relevant Cabinet member, or another member as determined by the chairman.

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

No person may submit more than one written question at any one meeting, and no more than three questions may be asked on behalf of one organisation.

To guarantee a reply at the meeting, members of the public must deliver their question in writing or by email, to Democratic Services no later than two clear working days prior to the start of the meeting. Each question must give the name and address of the questioner. Any written question received by the deadline will receive a written response.

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.

### **Scope of questions**

A question may be rejected if it:

- (a) is not about a matter for which the council has a responsibility, or which affects the Isle of Wight
- (b) is defamatory, frivolous or offensive
- (c) is not a question but a statement
- (d) relates to an individual or the questioner's own particular circumstances
- (e) is substantially the same question which has been put at a meeting in the past six months
- (f) requires the disclosure of confidential or exempt information or
- (g) names or identifies individual service users, members of staff or members/staff of partner agencies
- (h) is not submitted within the requisite timeframe

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.

## **Record of written questions**

Democratic Services will give a unique reference number to each written question received at least two clear working days 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 public 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. Minutes of the meeting will record who asked a question, the subject matter and the reference number of both the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

## **Asking a written question at a meeting**

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 councillor can ask the question on their behalf.

If the questioner is not present, then the chairman will decide whether the question should be read out and answered at the meeting.

The chairman may refuse to permit any question that in their opinion would be inappropriate for the meeting.

A person who has submitted a written question will not also be able to submit an oral question at the same meeting.

## **Oral questions – Full Council and Cabinet**

Members of the public wishing to ask an oral question at either Full Council or Cabinet should register their intention at the reception desk in advance of the meeting. The time for registering will be 30 minutes prior to the published start of the meeting up until 10 minutes prior to that meeting commencing.

They will then be given a form to complete with 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). These forms will be consecutively numbered in the order submitted.

At the expiry of the 10 minutes prior to the start of the meeting, the forms will be collected and handed to the chairman in numbered order.

Up to 15 minutes will be allotted to deal with written public 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. As the subject matter is known at that stage, the chairman should indicate which member will reply.

Once all registered oral questions have been dealt with, if time permits and at the discretion of the chairman, any further oral questions may be put to the meeting by members of the public.

Once the defined period of time allowed for questions has passed then all unanswered oral questions fall (unless chairman exercises their discretion to extend the time).

No oral question will receive a written reply, unless the member responding indicates as such.



## **Oral questions – other committees**

If time allows, the chairman will ask in the meeting if there are any oral questions from members of the public. People asking an oral question must state their name and place of residence. The chairman may ask for any oral question to be submitted in writing.

Minutes of all meetings will record who asked a question, the subject matter, the response 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.

## **Supplementary question**

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 their 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 'Scope of questions', above.

## **Written answers**

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

Where a reply cannot be provided at the meeting and a written response is promised, then such a response will usually be provided within three 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.

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## **16. Disturbance by Public**

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

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

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## **17. Recording of Meetings**

While a meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings in any publicly available medium, including taking of photographs and the making audio or visual recordings, will be afforded reasonable facilities for so doing in accordance with the Recording, Photography and Use of Social Media Protocol (see Part 5 Section 11).

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## **18. Discussion of Individual Officers**

No discussion shall take place in a meeting about the terms or conditions of employment or the conduct of any officer of the council unless the meeting has first considered whether to exclude the public.

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## **19. Non-Attendance at Meetings**

Any councillor who is not likely to meet the requirement in the Local Government Act 1972 to attend at least one meeting of either the council, a committee or a sub-committee in any period of six consecutive months should write to the Monitoring Officer explaining their non-attendance. The Monitoring Officer will report to Full Council, which will decide whether the councillor can remain a member of the council. Approval to continue in office must be given before the six months expires.

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## **20. Suspension, Amendment and Interpretation of Procedure Rules**

All of these rules except Sections 10 and 18 may be suspended by motion on notice or without notice if at least one half of those in attendance agree. Suspension can only be for the duration of the meeting.

At the discretion of the chairman, any motion to add to, vary or revoke these rules will, when proposed and seconded, stand adjourned without discussion to the next Ordinary Meeting of Full Council, unless such motion is submitted as part of the consideration of a written report circulated with the agenda that recommends such a change.

Subject to receiving appropriate advice from the Monitoring Officer, the ruling of the chairman as to the construction or application of any of these rules, or as to any proceedings of the meeting, shall not be challenged at any meeting.

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## **PART 4C - PETITION SCHEME**

### **1. Petitions**

1.1 The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council that meet the requirements below will receive an acknowledgement from the council within 10 working days of receipt, setting out what the council plans to do with the petition. Something will be treated as a petition if it is identified as being a petition, or if it seems to the council that it is intended to be a petition.

1.2 There are three types of petitions:

- (a) Petitions of 2,500 or more signatories (to which sections 4 to 10 of this scheme applies)
- (b) Petitions of fewer than 2,500 signatories (see section 2)
- (c) Petitions made in relation to planning, licensing or other statutory provisions (see section 3).

1.3 The council's response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:

- (a) taking the action requested in the petition
- (b) considering the petition at a council meeting (the consideration of the petition may be deferred to a subsequent meeting if the council considers that it requires further information)
- (c) holding an inquiry into the matter
- (d) commissioning research into the matter
- (e) holding a public meeting
- (f) holding a meeting with petitioners
- (g) referring the petition for consideration by the council's scrutiny committee
- (h) writing to the petition organiser setting out our views about the request in the petition

1.4 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

1.5 If a petition is about something which is the responsibility of another authority, the petition organiser will be asked whether they would like the petition to be redirected to that other authority. Where a petition relates to a matter over which the council has no responsibility, control or influence, the petition will be returned to the petition organiser with an explanation for that decision.

### **2. Petitions of fewer than 2,500 named persons**

2.1 Petitions containing fewer than 2,500 named persons should be given or sent direct to the relevant Cabinet member who will deal with the request contained within the petition as they consider appropriate.

2.2 Details of the relevant Cabinet member and how to contact them can be found here:

[Cabinet posts - Modern Council \(moderngov.co.uk\)](http://moderngov.co.uk)

2.3 The petition must contain the name and address of the petition organiser and the Cabinet member shall inform the petition organiser what they intend to do with the petition. This can include:

- (a) Noting its contents
- (b) Agreeing some form of action
- (c) Meeting with some or all of the petitioners to discuss the matter
- (d) Taking its contents into account when making any subsequent decisions.

2.4 If there is no named petition organiser than the first-named on the petition will be deemed to be the petition organiser.

### 3. **Petitions made in relation to planning, licensing or other statutory provisions**

3.1 Petitions that are made under enactments are excluded from this scheme. Other exclusions are where the petition applies to a planning or licensing application, is a statutory petition (for example, requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, or other procedures apply.

### 4. **Petitions of 2,500 or more named persons**

4.1 The rest of this scheme relates to petitions containing 2,500 or more named persons.

4.2 Petitions of 2,500 or more named persons should be sent in hard copy to:

Democratic Services  
Isle of Wight Council  
County Hall  
Newport  
PO30 1UD

or by email to [democratic.services@iow.gov.uk](mailto:democratic.services@iow.gov.uk)

4.3 Petitions may be presented to a meeting of the council either in person by a petitioner organiser or by a councillor on their behalf.

### 5. **Guidelines for submitting a petition**

5.1 Petitions submitted to the council must include:

- (a) a clear and concise statement covering the subject of the petition
- (b) a statement clearly setting out what action the petitioners wish the council to take, including whether the petitioners are seeking a debate at Full Council or an officer to give evidence at a scrutiny committee
- (c) the names of all persons supporting the petition and preferably their postcode
- (d) the contact details, including an address, of the petition organiser (the person who will be contacted to explain how the council will respond to the petition). If the petition does not identify a petition organiser, the first signatory on the petition will be treated as the petition organiser.

5.2 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.

5.3 If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, the petition organiser will be provided with the reasons. Paragraphs 7.2 and 7.3 provide further explanation.

5.4 In the period immediately before an election or referendum, the council may need to deal with petitions differently if they relate to a potentially controversial matter. If this is the case, reasons will be provided to the petition organiser and a revised timescale agreed.

## 6. **Signing a petition**

6.1 A petition can be signed by a person of any age.

6.2 A person may only sign a petition once. The list of persons on the petition will be subject to sample checks by officers and any duplicate or inappropriate names will be removed.

## 7. **What the council does when it receives a petition**

7.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what the council plans to do with the petition and when they can expect to receive further contact.

7.2 The Proper Officer will agree with the petitioner, in consultation with the chairman, the wording of the motion to be put to Full Council for members to debate and vote on, which should reflect the wording used in the petition.

7.3 The council will not take action on any petition which it considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in any acknowledgement. For example, a petition may be rejected if the Monitoring Officer considers that it:

- (a) contains intemperate, inflammatory, abusive or provocative language
- (b) is defamatory, frivolous, vexatious, discriminatory or otherwise offensive
- (c) contains false statements
- (d) does not relate to a subject matter which is within the direct control of the council, e.g. request to lobby central government
- (e) is too similar to another petition submitted within the past six months
- (f) discloses confidential or exempt information, including information protected by a court order or government department
- (g) discloses material that is commercially sensitive
- (h) names individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies, or makes criminal accusations
- (i) contains advertising statements
- (j) refers to an issue which is currently the subject of a formal council complaint, local ombudsman complaint or any legal proceedings

7.4 When considering whether a petition is vexatious, the council will use as a starting point the guidance under the Freedom of Information Act 2000, which states: *“Deciding whether a Freedom of Information request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.”*

- 7.5 Details of all the petitions submitted to the council will be published on its website. Whenever possible, all correspondence relating to the petition will also be published (all personal details will be removed, including petitioners' addresses).
- 7.6 When a petition is received that relates to a local matter (particularly affecting specific electoral divisions), a copy of the petition will be sent to each relevant councillor at the same time as acknowledging receipt of the petition to the petition organiser.

## **8. Full Council debates**

- 8.1 If a petition contains 2,500 or more named persons, it will be debated by the Full Council unless it is a petition asking a senior council officer to give evidence at a public meeting or if it is on a subject matter that the council is currently consulting on. If there is a current consultation on the same subject matter, then the petition will be referred to the relevant Cabinet member to consider as part of the consultation. If the petition does proceed to Full Council debate, then this means that the issue raised in the petition will be discussed at a meeting which all councillors can attend.
- 8.2 The council will endeavour to consider the petition at its next meeting, if the meeting is due to take place no less than seven working days ahead and there is sufficient time on the agenda to consider the petition. A petition will not be debated at a Full Council meeting at which there is a related report. However, where there are fewer than seven working days until the meeting, consideration will take place at the meeting following that. Petitions will not be considered at the annual meeting of Full Council or at Extraordinary Meetings of Full Council, which are not convened to consider the subject matter of petitions.
- 8.3 The petition organiser will be given three minutes to present the petition at the meeting and the Leader will then be given three minutes to reply. The petition will then be discussed by councillors for a maximum of 15 minutes. The Leader will then be invited to sum up for no more than two minutes. The council will then vote on the motion as agreed with the petitioner. There shall be no right by petitioner or members to amend the motion.
- 8.4 The petition organiser will receive written confirmation of the council's decision. This confirmation will also be published on our website.

## **9. Evidence to Corporate Scrutiny Committee**

- 9.1 A petition may ask a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected councillors to enable them to make a particular decision.
- 9.2 If a petition contains at least 2,500 named signatories, the relevant senior officer will give evidence at a public meeting of the council's Corporate Scrutiny Committee. The senior officers who can be called to give evidence are Directors or their nominees.
- 9.3 At the meeting, the petition organiser will be invited to address the committee for a maximum of five minutes on the issue and, where the petition relates to a division matter, the relevant councillor will also then be invited to comment on the petition for up to three minutes. The relevant officer will then be required to report to the committee in relation to the subject matter of the petition.



10. **What can I do if I feel my petition has not been dealt with properly?**

- (a) The petition organiser has the right to request that the Corporate Scrutiny Committee review the steps that the council has taken in response to their petition if they feel that the council has not dealt with their petition properly. Requests for such a review should be made to the Monitoring Officer within 20 working days of being notified of the council's decision on the petition. The petition organiser must give a short explanation of the reasons why the council's response is not considered to be adequate.
- 10.2 The committee will endeavour to consider a request at its next meeting, if the meeting is due to take place no less than seven working days ahead. However, where there are fewer than seven working days until the meeting, consideration will take place at the meeting following that.
- 10.3 Should the committee determine the council has not dealt with a petition adequately, it may
- (a) instigate an investigation
  - (b) make recommendations to the Cabinet
  - (c) arrange for the matter to be considered at a meeting of the Full Council
- 10.4 Once the appeal has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the council's website.

11. **Information and advice**

- (a) The council accepts petitions in hard copy or online (e-petitions). There are many online websites that offer support or guidance on creating e-petitions, e.g. <http://www.change.org/en-GB>.

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## PART 4D - OFFICER EMPLOYMENT RULES

### 1. Appointment of Officers

- 1.1 The council may appoint such officers as it thinks necessary for the proper discharge of such of its (or another authority's) functions as falls or is agreed to be discharged by it<sup>6</sup>.
- 1.2 Every appointment of a person to a paid office or employment by the council must be made on merit<sup>7</sup>.
- 1.3 There are regulations establishing various mandatory standing orders (procedure rules) giving effect to obligations or restrictions on delegation of authority to bring these principles into effect. These rules are set out below<sup>8</sup>.

### 2. Statutory Chief Officers, Chief Officers, Deputy Chief Officers and Other Officers

2.1 Local government employment rules differentiate between categories of officers, including:

- (a) Statutory Chief Officers
- (b) Governance Statutory Chief Officers
- (c) Chief Officers
- (d) Deputy Chief Officers and
- (e) other statutory officers
- (f) proper officers

2.2 Statutory Chief Officers are:

- (a) Head of Paid Service (LGHA 1989, s.4)
- (b) Monitoring Officer (LGHA 1989, s.5)
- (c) Chief Finance Officer (LGA 1972, s.151)
- (d) Director of Children's Services (Children Act 2004, s.18)
- (e) Director of Adult Social Services (Local Authority Social Services Act 1970, s.6(A1))
- (f) Director of Public Health (National Health Service Act 2006, s.73A(1))

2.3 Governance Statutory Chief Officers are the first three in the above list. They have additional statutory employment protection due to the nature of their roles, including the involvement of an independent third-party in any proposed disciplinary investigation<sup>9</sup>.

2.4 Non-Statutory Chief Officers<sup>10</sup> are:

- (a) a person for whom the Head of Paid Service is directly responsible
- (b) a person who reports directly or is directly accountable to the Head of Paid Service

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<sup>6</sup> [Local Government Act 1972, s 112](#)

<sup>7</sup> [Local Government and Housing Act 1989, s 7](#)

<sup>8</sup> [Local Authorities \(Standing Orders\) Regulation 1993, SI 1993/202](#)

[Local Authorities \(Standing Orders\) \(England\) Regulations 2001, SI 2001/3384](#)

<sup>9</sup> [Local Authorities \(Standing Orders\) \(England\) Regulations 2001](#) as amended by the [Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015](#)

[SI 2001/3384, reg 6](#)

[Local Government Act 2000, s 9FB](#)

<sup>10</sup> [Local Government and Housing Act 1989, s.2\(7\)](#)

- (c) any person who reports directly or is directly accountable to the local authority itself or any committee or sub-committee of the authority; but
- (d) excludes any person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

2.5 Deputy Chief Officers are people who report directly or are directly accountable to one or more of the statutory or non-statutory chief officers, subject to the same exclusion concerning administrative and support staff<sup>11</sup>.

2.6 Other Statutory and Proper Officers

2.7 Proper Officers are officers appointed by the council to discharge particular statutory functions but are not necessarily chief officer posts in their own right (see Part 3 Section 12).

### 3. **Who Makes the Decision?**

3.1 Where Executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a Non-Executive function. This means that these decisions are either taken by Full Council itself, a committee or an officer, although there are a number of exceptions to this, as outlined below<sup>12</sup>.

### 4. **Role of Councillors**

4.1 The appointment or dismissal of the Head of Paid Service may only be made by a meeting of the Full Council, which may either be direct or as confirmation of a recommendation from a committee or sub-committee of the council<sup>13</sup>.

4.2 Full Council has delegated authority to the Appointments and Employment Committee in respect of Governance Statutory Chief Officers and Directors (see Part 3 Section 6).

4.3 Delegated authority is granted to the Chief Executive as Head of Paid Service for the appointment, dismissal, determining any capability issue and taking any disciplinary action taken in respect of all other staff positions. Appeals against dismissal can be made to councillors.

4.4 Unlike the Head of Paid Service, there is no statutory requirement for Full Council to approve appointment of statutory posts, but this is common practice in respect of the Monitoring Officer and Chief Finance Officer posts across many authorities, including the Isle of Wight, and is a requirement in this Constitution (see Part 3 Section 6). Dismissal of the Monitoring Officer and Chief Finance Officer may by law only be made by a meeting of Full Council, which may either be direct or as a confirmation of a recommendation from a committee or sub-committee of the council (see 10.6 below).

### **Involvement of the Leader and Cabinet**

4.5 The Leader and Cabinet are involved in decisions to appoint or dismiss Governance Statutory Chief Officers and Directors in two distinct ways:

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<sup>11</sup> [Local Government and Housing Act 1989, s 2\(8\)](#)

<sup>12</sup> [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000, SI 2000/2853, Sch 1, para 37 LGA 1972, s 101](#)

<sup>13</sup> [SI 2001/3384, Sch 1, para 4](#)

- (a) where a committee or a sub-committee of the council is discharging, on behalf of the authority, the function of appointment or dismissal, at least one member of the Cabinet must be a member of that committee or sub-committee
- (b) before an offer of appointment or notice of dismissal is issued, Cabinet members must be informed of the prospective decision and the Leader may make representations concerning their 'material and well founded' objection to the decision maker<sup>14</sup>

## 5. **Role of Head of Paid Service**

5.1 The Head of Paid Service undertakes three distinct roles in this process:

- (a) decision maker on posts other than Governance Statutory Chief Officers and Directors (and the responsible officer concerning the grant and supervision of exemptions from political restriction)<sup>15</sup>
- (b) principal advisor on staffing matters to the council and/or the appropriate committee or sub-committee (except where there would be a conflict of interest in respect of their own pay and conditions of service)
- (c) responsible for issuing a formal 'section 4' report<sup>16</sup>, informing the council of proposals concerning:
  - (i) the manner in which the discharge by the authority of its different functions is co-ordinated
  - (ii) the number and grades of staff required by the authority for the discharge of its functions
  - (iii) the organisation of the authority's staff; and
  - (iv) the appointment and proper management of the authority's staff

5.2 Subject to Rules 6 and 13, the functions of appointment and dismissal of, and taking disciplinary action against, an officer of the council must be discharged, on behalf of the authority, by the Head of Paid Service, or by an officer nominated by them and not by members of the council.

5.3 The Head of Paid Service has authorised all Directors to carry out on their behalf the functions of appointment and dismissal of, and taking disciplinary action against, officers.

## 6. **Rule 5 shall not apply to the appointment or dismissal of, or disciplinary action against:**

- (a) the Head of Paid Service
- (b) the Monitoring Officer
- (c) the Chief Finance Officer
- (d) Directors
- (e) Political Assistants<sup>17</sup>
- (f) the consideration of grievance and disciplinary appeals relating to Governance Statutory Chief Officers and Directors in cases of dismissals that arise out of disciplinary or capability proceedings

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<sup>14</sup> [SI 2001/3384, Sch 1, Pts I, II](#), paras 5, 6

<sup>15</sup> [LGHA 1989, s 3](#)

<sup>16</sup> [LGHA 1989, s 4](#)

<sup>17</sup> [LGHA 1989, s.9](#)

## 7. Recruitment and Appointment of Officers

### 7.1 Declarations

- (a) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing councillor or officer of the council, or of the partner of such persons.
- (b) No candidate so related shall be appointed without the authority of the relevant chief officer.

### 7.2 Seeking support for appointment

- (a) Subject to paragraph (c) below, the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council.
- (b) Subject to paragraph (c) below, no councillor will seek to support any person for appointment with the council.
- (c) 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.

## 8. Recruitment of Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers

8.1 Where the council proposes to appoint a Statutory Chief Officer, a Non-Statutory Chief Officer, or a Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing officers, the council will:

- (a) Draw up a statement specifying:
  - (i) the duties of the post
  - (ii) any qualifications or qualities required
- (b) Arrange for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it
- (c) Arrange for a copy of the statement mentioned in Rule 8.1(a) to be sent to any person on request

8.2 Where a post has been advertised as provided in Rule 8.1(b), the council shall:

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

8.3 Where no suitably qualified person has applied, the post may be re-advertised in accordance with Rule 8.1(b).

8.4 When a Statutory Chief Officer (other than a Governance Statutory Chief Officer), a Non-Statutory Chief Officer, or a Deputy Chief Officer ceases to hold that post or is likely to be absent for any length of time, the Head of Paid Service, after consultation with the Leader, may appoint someone to act temporarily in that capacity and determine the salary to be paid. Similarly, the Head of Paid Service may, after consultation with the Leader, appoint an interim senior manager to undertake a specific role that does not currently exist in the Establishment and determine the rate of remuneration.

**9. Appointment or Dismissal of Governance Statutory Chief Officers and Directors**

- 9.1 No offer of an appointment or notice of dismissal may be made to a Governance Statutory Chief Officer or a Director until:
- (a) the Council, the Appointments and Employment Committee (or other responsible body or officer) has notified the Monitoring Officer of the name of the person to be offered the appointment or given notice of dismissal and any other particulars the committee considers relevant
  - (b) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer or issuing of the notice can be made by the Leader
  - (c) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either:
    - (i) in the case of a Governance Statutory Chief Officer, Full Council has confirmed the appointment or dismissal after consideration of any such objection and resolving that it is not material or not well-founded or
    - (ii) in all other cases, no such objection has been made or the Appointments Committee has considered any such objection and has resolved that the objection is not material or not well-founded

**10. Dismissal of a Governance Statutory Chief Officer**

- 10.1 No dismissal may be taken in respect of a Governance Statutory Chief Officer other than in accordance with the following procedure:
- 10.2 The council will appoint the Investigating and Disciplinary Committee who will determine if a full investigation is required and if so will appoint an independent investigator. The Investigatory and Disciplinary Committee will determine what action, if any, is required. If the Committee makes a recommendation to Full Council for dismissal, such recommendation shall be first considered by an Independent Panel.
- 10.3 The council will appoint the Independent Panel for the purposes of advising the council on matters relating to the dismissal of a Governance Statutory Chief Officer.
- 10.4 The council will appoint to the Independent Panel three independent persons appointed under section 28 of the Localism Act 2011 who have accepted an invitation in accordance with the following priority order:
- (a) an independent person who has been appointed by the council and who is a local government elector;
  - (b) any other independent person who has been appointed by the council;
  - (c) an independent person who has been appointed by another authority or authorities.
- 10.5 Before the taking of a vote at the relevant meeting on whether or not to approve a dismissal, Full Council must take into account, in particular:
- (a) any advice, views or recommendations of the Independent Panel
  - (b) the conclusions of any investigation into the proposed dismissal and
  - (c) any representations from the relevant officer
- 10.6 Full Council will abide by the recommendations of the Independent Panel unless there are exceptional reasons to justify departing from them.

- 10.7 A Governance Statutory Chief Officer may only be dismissed on the vote of two-thirds of all the members of Full Council, i.e. not just those present and voting.
- 10.8 All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect.

## **11. Appeals**

- 11.1 If any decision to dismiss an officer is taken by Full Council, it is not possible to provide an internal appeal process against the dismissal. Instead, the officer may appeal to an appeals panel formed from a neighbouring local authority under sharing arrangement in accordance with s.101 Local Government Act 1972.
- 11.2 Any other appeal by an officer must be lodged with the Head of Paid Service within 10 working days of written confirmation to the officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.
- 11.3 Appeal hearings shall be considered by the Appointments and Employment Sub-Committee in the case of all employees (except Governance Statutory Officers appealing against action short of dismissal in which case it shall be the Appeals Committee) and shall not include members involved in the decision to dismiss or take disciplinary action.

## **12. Appointment and Dismissal of the Director of Public Health**

- 12.1 In circumstances where the council wishes to appoint a Director of Public Health (rather than operate a shared service with another appointing authority), the Head of Paid Service or their nominee shall:
- (a) liaise with the Faculty of Public Health regarding the production or updating of the statement specifying:
    - (i) the duties of the post; and
    - (ii) all necessary areas of professional and technical competence
  - (b) arrange for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the council's existing staff);
  - (c) share the statement with the Public Health England Regional Director, on behalf of the Secretary of State for Health;
  - (d) arrange for the statement in paragraph (a) above to be sent to any person on request.
- 12.2 The Head of Paid Service or their nominee shall arrange for an Advisory Appointments Committee to be established to undertake the selection and appointment process for the Director of Public Health. In so doing, the advice and recommendations of Public Health England on the membership of the Advisory Appointments Committee, including the assessor, shall be sought. It is for the council to decide whether both a medical assessor and non-medical assessor are required.
- 12.3 The Advisory Appointments Committee will be chaired by the Cabinet Member on the Health & Wellbeing Board and will include:
- (a) the Head of Paid Service or their nominee
  - (b) an external professional assessor (appointed following consultation with the Faculty of Public Health and agreed by Public Health England)



- (c) a senior NHS representative
  - (d) the Public Health England Regional Director, or another senior professionally qualified member of Public Health England acting on their behalf.
- 12.4 The overall balance of the Advisory Appointments Committee is required to have a local and professional majority, although assessors must be geographically distant and normally from outside the Isle of Wight.
- 12.5 In all cases, either all qualified applicants or a selected shortlist will be interviewed by members of the Advisory Appointments Committee with the Head of Paid Service (or other chief officer as determined by the committee) acting as adviser to the Advisory Appointments Committee.
- 12.6 Where no suitably qualified person has applied, the post may be re-advertised.
- 12.7 No offer of appointment for the Director of Public Health may be made until approval has been received from the Secretary of State for Health.
- 12.8 Following approval from the Secretary of State for Health on the Advisory Appointments Committee's selection decision, no offer of an appointment to the Director of Public Health post may be made until:
- (a) the Proper Officer has recorded the name of the person to be offered the appointment and any other particulars the Advisory Appointments Committee considers relevant to the appointment;
  - (b) that information has been sent by the Proper Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer can be made by the Leader;
  - (c) the Proper Officer has confirmed that the date and time for objection by the Leader has elapsed no such objection has been made or the Advisory Appointments Committee has considered any such objection and has resolved or decided that the objection is not material or not well-founded.
- 12.9 Consultation with the Secretary of State for Health is required prior to the dismissal of the Director of Public Health

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## PART 5 - CODES AND PROTOCOLS

### 1. Protocol for Councillors Rights to Information

In principle, councillors have, in addition to the ordinary rights of access to information enjoyed by the general public, the right to access any information held by the council of which they are a member. This right of access may not extend to publishing or otherwise making public such information and, indeed, councillors may be asked to sign a confidentiality undertaking before being provided with certain information.

#### The statutory position

[Section 100F Local Government Act 1972](#) (as amended) (the Act) provides that any document, which is in the possession or under the control of a principal council, and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council, shall be open to inspection by any member of the council.

This does not require the document to be open to inspection if it appears to the Proper Officer that it discloses exempt information under [Schedule 12A](#) of the Act. However, under the [Local Government \(Access to Information\) \(Variation\) Order 2006](#), the document will still be open to inspection by members if it contains the following:

- (a) Information relating to the financial or business affairs of any particular person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) Information which reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment.

[The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\)\(England\) Regulations 2012](#) (the Regulations) apply to local authorities in England that operate executive arrangements under [Part 1A Local Government Act 2000](#), as amended by s.21 and Schedule 2 of the Localism Act 2011. The Regulations:

- (a) clarify and extend the circumstances in which executive decisions are public. There is a presumption that a meeting will be open to the public unless the nature of the business being transacted would result in confidential information being disclosed
- (b) make provision for the publicity that must be given before a Key Decision is taken by the Executive and for the inclusion of prescribed information in a written statement of the Executive decision
- (c) set out additional rights of members generally, and members of overview and scrutiny committees in particular, to access documents; and general provisions relating to information that is exempt from disclosure (including advice from a political adviser)

#### All Members

Regulation 16 contains rights for any member to access documents that:

- (a) are in the possession or under the control of the Executive; and

- (b) contain material relating to any business to be transacted at a public meeting.

Any such document must be available for inspection for at least five clear days before the meeting, except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.

Any document which:

- (a) is in the possession or under the control of the Executive and
- (b) contains material relating to:
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by an individual member in accordance with executive arrangements; or
  - (iii) any decision made by an officer in accordance with executive arrangements

must be available for inspection by any member when the meeting concludes or, where an Executive decision is made by an individual member or an officer, immediately after the decision is made. Any such document must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.

Neither of these provisions applies if it discloses exempt information. However, the document will still be open to inspection if it contains:

- (a) Information relating to the financial or business affairs of any person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract, or
- (b) Information which reveals that the authority proposes:
  - (i) to give a notice under which requirements are imposed on a person; or
  - (ii) to make an order or direction

All agendas, reports and other documents and proceedings of committees and sub-committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the council's business.

### **Overview and Scrutiny Members**

Regulation 17 provides additional rights of access for members of overview and scrutiny committees who are entitled to a copy of any document that:

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to:
  - (i) any business that has been transacted at a meeting of a decision-making body of the authority;
  - (ii) any decision that has been made by an individual member of the Executive; or
  - (iii) any decision that has been made by an officer in accordance with Executive arrangements.

The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.

No member of an overview and scrutiny committee is entitled to a copy:

- (a) of any document or part of a document that contains exempt or confidential information unless that information is relevant to:
  - (i) an action or decision that the member is reviewing or scrutinising; or
  - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

Where the Executive determines to refuse such a request it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

## **FOIA and EIA**

Local councillors can, like a member of the general public, also resort to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Information Commissioner's Office provides two very helpful publications; first, the [Guide to Freedom of Information](#) and second, the [Guide to the Environmental Information](#). In addition, there is detailed guidance on the exemptions that may be applicable.

## **Local authority accounts**

The [Local Audit and Accountability Act 2014](#), and the [Accounts and Audit Regulations 2015](#) provide a right to inspect, question and make objections to the council's auditor, take copies of statements of accounts and auditors' reports. These rights are explained fully in the [National Audit Office guidance](#), but are restricted to prevent access to documents containing personal information about staff.

In addition, [s.228\(3\) of the Act](#) provides that "The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts".

## **The common law 'need to know'**

Under common law principles, all members have the right to access information held by their authority where it is reasonably necessary to enable them to properly perform their duties as a councillor.

However, if the member's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go on a 'fishing expedition' through their council's documents.

If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties.

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## **2. Access to Information Rules**

### **1. Scope**

These rules apply to all meetings of the Full Council, Cabinet, Scrutiny committees, Regulatory committees and any sub-committees panels or boards thereof (together called meetings). Decisions taken by individual Cabinet members will not take place in a meeting.

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

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

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

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

### **4. Notices of meeting**

The council will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Newport and on the council's website. Where exceptionally this period of notice cannot be given, notice will be given as soon as the meeting is convened.

### **5. Key Decisions**

At least 28 clear days before a Key Decision is made, the Forward Plan must contain the following information:

- (a) That a key decision is to be made on behalf of the council;
- (b) The matter in respect of which the decision is to be made;
- (c) Where the decision maker is an individual, that individual's name, position and, where the decision maker is a decision-making body, its name and list of members;
- (d) The date on which, or the period within which, the decision is to be made;
- (e) A list of the documents the decision-maker is likely to consider, including what other documents may be submitted to the decision-maker;
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) That other documents relevant to those matters may be submitted to the decision maker;
- (h) The procedure for requesting details of documents;
- (i) Whether the public are likely to be excluded from the meeting at which the matter is to be discussed, or whether papers relating to the matter may be excluded from publication;

Except in cases of urgency (see Part 3 Section 17), where the publication of the intention to make a Key Decision is impracticable, that decision may only be made:

- (a) where the clerk has informed the chairman of the relevant Scrutiny committee or, in their absence, each member of the relevant Scrutiny committee by notice in writing, of the matter about which the decision is to be made and setting out the reasons why publication is impracticable;
- (b) where the clerk has made available for inspection and published on the website a copy of the notice given under (a); and
- (c) after five clear days have elapsed following the day on which the clerk made available the notice referred to under (b).

If a Scrutiny committee considers that a decision taken should have been treated as a Key Decision but was not, it may require the Leader to report to the council within a specified reasonable time, giving details of the decision, the reasons for it, who made it and why it was not considered to be a Key Decision.

In accordance with Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader will submit an annual report to Full Council containing particulars of all Key Decisions taken as urgent since the last annual report.

## **6. Exclusion of press and public to meetings**

Where a 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 below for the meeting to go into private session.

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; and must be excluded where it is likely 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.

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.

Exempt information means information falling within the following categories, determined by reference to the description in Schedule 12A to the Local Government Act 1972:

- (a) Information relating to any individual.
- (b) Information which is likely to reveal the identity of an individual.
- (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts.
- (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority.
- (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (f) Information which reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment.
- (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information that falls within (a)-(g) above is exempt information only if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.



Information is not exempt 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.

## **7. Private meetings**

At least 28 clear days before a private meeting, e.g. where one or more of the reports on the agenda includes exempt or confidential information, a notice of the intention to hold part or all of the meeting in private must be included in the Forward Plan published on the council's website and be available for inspection.

The notice must state the reasons for the meeting to be held in private and advise that any representations about why the meeting should be open to the public must be received by 10 clear days before the meeting (so these can be considered by the Monitoring Officer and responded to).

At least 5 clear days before a private meeting, a further notice of the intention to hold part or all of the meeting in private must be included in the agenda published on the council's website and be available for inspection.

The notice must:

- (a) state the reasons for the meeting to be held in private
- (b) provide details of any representations received about why the meeting should be open to the public
- (c) include a statement of the council's response to any such representations

Where the whole or any part of a report for a public meeting, or as part of a Cabinet member decision, is not available for inspection by the public:

- (a) every copy of the whole report or the part of the report, as the case may be, must be marked "not for publication"; and
- (b) there must be stated on every copy of the whole or the part of the report:
  - (i) that it contains confidential or exempt information;
  - (ii) by reference to the categories in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision-making body discharging the function is likely to exclude the public during the item to which the report relates.

## **8. Urgent decisions in private meetings**

Where the date by which a private meeting must be held makes compliance with the notice periods above impracticable, the meeting may only be held in private where agreement has been obtained in writing from the chairman of the Corporate Scrutiny Committee or, in their absence, the Chairman of the Council or, in their absence, the Vice-Chairman of the Council, that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained, a further notice must be published on the agenda on the website and be available for inspection, setting out the reasons why the meeting is urgent and cannot reasonably be deferred;

If the matter is confidential or exempt from publication, then the item will not be made available to the public. However, the clerk will be required to ensure that a separate public

report and minute is produced containing all information that is not confidential or exempt from publication.

If an item is later added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the report author shall make each such report available to the public as soon as the report is completed.

In the case of items or reports that fail to meet the deadline of five clear days, the report will only be included on the agenda where the Chief Executive is satisfied that:

- (a) the item/report is genuinely urgent and cannot wait until a later meeting; and
- (b) the report author will be responsible for including those reasons in the report.

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

The council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting, or if a meeting is convened at less than five clear 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.

Except during any part of a meeting during which the public are excluded, the council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

#### **10. Supply of copies**

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

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

The council will retain and make available copies of the following for six years after a meeting, or the taking of a decision:

- (a) the minutes of the meeting and/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
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (c) the agenda for the meeting and
- (d) reports relating to items when the meeting was open to the public

#### **12. Background papers**

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

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

(c) do not include published works or those which disclose exempt or confidential information

The council will make background papers available for public inspection for four years after the date of the meeting.

**13. Summary of public's rights**

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

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

If the Proper Officer thinks fit, the council may exclude access by the press and public to reports which in their 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.

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### 3. Protocol for Recording and Publishing Officer Decisions

#### 1. Background

1.1 This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.

#### 2. Types of officer decisions

2.1 An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

2.2 A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

2.3 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions will need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing in accordance with paragraph 2.7 below.

2.4 Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail as referred to in paragraph 5.

2.5 Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

**Key Decisions** are executive decisions that are likely to result in spending or savings that are 'significant':

- in relation to the budget for the service or function in question or
- in terms of the effect on communities living or working in two or more electoral divisions

**Material Decisions** are executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:

- That are contentious, controversial or politically sensitive; or
- Where there is likely to be a strong public interest; or
- Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- Raise new issues of policy

**Significant Decisions** are non-executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- is to grant a permission or licence
- affects the legal rights of an individual
- is to award a contract or incur expenditure which 'materially' affects the authority's financial position

**Urgent Decisions** are decisions made in circumstances where:

- a decision is required by statute or otherwise within a specified timescale; or
- any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- any delay likely to be caused by not making the decision would be likely to expose the council, its councillors or the public to a significant level of risk, loss, damage or disadvantage

2.6 Officers do not have authority to make Key Decisions except where:

- they are specifically authorised by the Leader, Cabinet, Full Council or Committee; or
- the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

2.7 The following types of officer decision must be formally recorded and published subject to the exceptions set out:

| Type of Officer Decision  | Exception   | Publication   |
|---|---|---|
| <p><b>Key Decisions</b></p> <p>Executive decisions that are likely to result in spending or savings that are 'significant':</p> <ul style="list-style-type: none"> <li>• in relation to the budget for the service or function in question or</li> <li>• in terms of the effect on communities living or working in two or more electoral divisions</li> </ul>  | <p>Officers are only to take Key Decisions where:</p> <ul style="list-style-type: none"> <li>(i) specifically authorised by the Leader or Cabinet; or</li> <li>(ii) where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.</li> </ul>   | <p>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at County Hall and published on the council's website, that includes details of:</p>  |
| <p><b>Material Decisions</b></p> <p>Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> <li>• That are contentious, controversial or politically sensitive; or</li> <li>• Where there is likely to be a strong public interest; or</li> <li>• Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</li> <li>• That raise new issues of policy.</li> </ul> | <p>Does not apply:</p> <ul style="list-style-type: none"> <li>(i) To routine operational, organisational or administrative decisions;</li> <li>(ii) Where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decision has been published;</li> <li>(iii) Confidential or Exempt Information; or</li> <li>(iv) Where the expenditure or saving is already recorded and published under separate statutory requirements.</li> </ul> | <ul style="list-style-type: none"> <li>• the decision and the date it was made;</li> <li>• the reasons for it;</li> <li>• any alternative options considered and rejected;</li> <li>• any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;</li> </ul> |
| <p><b>Significant Decisions</b></p> <p>Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision:</p>  | <p>Does not apply:</p> <ul style="list-style-type: none"> <li>(i) To routine operational, organisational or administrative decisions;</li> <li>(ii) Confidential or Exempt information;</li> <li>(iii) Where the date, details of and reasons for the decision are</li> </ul>   | <ul style="list-style-type: none"> <li>• the report considered by the decision-maker;</li> <li>• any background documents disclosing facts or matters on which the decision was based and which</li> </ul>  |

|   |  |   |
|---|--|---|
| <ul style="list-style-type: none"> <li>• is to grant a permission or licence</li> <li>• affects the legal rights of an individual</li> <li>• is to award a contract or incur expenditure which 'materially' affects the authority's financial position</li> </ul> | <p>already required to be produced under a statutory requirement;</p> <p>(iv) If only the rights of an individual or business are affected, unless there is a wider public impact/ interest in the action.</p> | <p>were relied on to a material extent in making the decision. The decision record must be kept for inspection for 6 years and the background papers for 4 years.</p> |
|---|--|---|

### 3. The process

- 3.1 Before taking any decision, the authorised officer must consider the principles of decision making set out in Part 3 Section 1 of the Constitution.
- 3.2 Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Forward Plan, which sets out matters to be considered over the following four months and is continually updated. The Forward Plan also includes non-executive decisions due to be taken by Full Council.
- 3.3 Where an officer makes an urgent Key Decision (see 2.6 above) they must comply with the legal requirements set out in the Access to Information rules (see Part 5 Section 2).

### 4. Call-In

- 4.1 Key Decisions made by officers are subject to call-in by Scrutiny Committees and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The call-in procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.
- 4.2 Although the formal Call-In process only applies to officer Key Decisions, Scrutiny Committees can call an officer to account over any decision made.

### 5. Recording and publishing the decision

- 5.1 The officer decisions for publication (listed in 2.7 above) are recorded in the same manner as Cabinet/Cabinet Member decisions. The officer must provide Democratic Services with a completed Officer Decision Record (available on the Council's intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (for example, in respect of a controversial or complex matter) a full report (based on the Cabinet report template).
- 5.2 Democratic Services will maintain a record of all decisions referred to in paragraphs 5.1, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website or at County Hall or by post if requested and on receipt of payment for copying and postage.
- 5.3 A written record must be available for public inspection for at least 6 years and the background papers for at least 4 years.

### 6. Consultation with councillors

## 6.1 Decisions by officers following delegation from Cabinet

Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet members, will ensure that such consultation takes place prior to making the decision.

## 6.2 Other decisions delegated to officers

Staff acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which councillors should be consulted and will ensure that appropriate consultation takes place.

## 7. Officer decision record

7.1 The form below should be used to record an officer decision and published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.

|  |  |
|--|--|
| Officer name and title:  |  |
| Directorate/Service:   |  |
| Subject of decision:   |  |
| Type of decision (tick as appropriate):  | 1. Key Decision<br>2. Material Decision<br>3. Significant Decision |
| Divisions affected:  |  |
| Subject to Call-In (yes/no):   |  |
| Source of delegated power (specific authorisation or scheme of delegation):  |  |
| Decision taken (specify details, including any grant of permission/licence; whether affecting the rights of an individual; or awarding a contract/incurred expenditure materially affecting the council's financial position): |  |
| Reasons for the decision (including reference to relevant council policy):   |  |
| Alternative options considered and rejected:   |  |
| Persons/organisations consulted and their comments:  |  |
| Any conflicts of interests declared by any member consulted and any dispensations granted by the Chief Executive in respect of any declared conflict:  |  |



|  |  |
|--|--|
| Background reports/information considered and attached (legal, personnel, financial implications, etc):                    |  |
| Consideration of the Public Sector Equality Duty and relevant Equality, Environmental and/or Community Impact Assessments: |  |
| Risk analysis:   |  |
| Any information exempt from publication:   |  |
| Date:  |  |

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## 4. Member Code of Conduct

### 1. Introduction and interpretation

This Code applies to all elected and co-opted members of the Isle of Wight Council when they act in their role as a member and it is their responsibility to comply with the provisions of this Code.

You should behave in a manner that is consistent with the “Nolan Principles – the seven principles of public life”, which apply to anyone who is elected or appointed to public office:

**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. They must declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

**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.

### 2. Scope

You must comply with this Code whenever you:

- (a) conduct the business of the council (which includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act, or give the impression you are acting in your official capacity as a representative of the council

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

Where you act as a representative of the council:

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

### 3. General obligations

When acting in your role as a member of the council you must:

- (a) Treat others with respect.
- (b) Not do anything that may cause the council to breach any of the equality enactments (in particular the Equality Act 2010);
- (c) Not bully any person;
- (d) In relation to an allegation that a member (including yourself) has failed to comply with their council's code of conduct, not intimidate, or attempt to intimidate, any person who is, or is likely to be:
  - (i) complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,
- (e) Not do anything that compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the council.
- (f) Not 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; and
    - you have consulted the Monitoring Officer prior to its release
- (g) Not prevent another person from gaining access to information to which that person is entitled by law.
- (h) Not conduct yourself in a manner that could reasonably be regarded as bringing your office or the council into disrepute.
- (i) 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.
- (j) When using, or authorising the use by others of, the council resources:
  - (i) act in accordance with the council's reasonable requirements
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (k) Have regard to any applicable local authority code of publicity made under the Local Government Act 1986.
- (l) When reaching decisions on any matter, have regard to any relevant advice provided to you by the Chief Finance Officer or the Monitoring Officer.
- (m) Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

#### 4. Register of Interests

You must complete your register of Disclosable Pecuniary Interests within 28 days of being elected and then update your register of interests within 28 days of any event that requires a change. A copy of the register will be available for public inspection and will be published on the authority's website.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

| <b>Subject</b>                                    | <b>Prescribed description</b>   |
|---|---|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| Sponsorship                                       | Any payment or provision of any other financial benefit (other than from the council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union & Labour Relations (Consolidation) Act 1992.  |
| Contracts   | Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the council:<br>(a) under which goods or services are to be provided or works are to be executed; and,<br>(b) which has not been fully discharged.  |
| Land  | Any beneficial interest in land which is within the council's area.   |
| Licences  | Any licence (alone or jointly with others) to occupy land in the council's area for a month or longer.  |
| Corporate tenancies                               | Any tenancy where (to your knowledge):<br>(a) the council is the landlord; and,<br>(b) the tenant is a body in which you or your partner has a beneficial interest.   |
| Securities  | Any beneficial interest in securities of a body where:<br>(a) that body (to your knowledge) has a place of business or land in the council's area; and<br>(b) either:<br>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or,<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

In the above schedule:

- (a) "body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest;
- (b) "director" includes a member of the committee of management of an industrial and provident society;

- (c) “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income;
- (d) “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of any Disclosable Pecuniary Interests; and,
- (e) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services & Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## 5. **Declaration and Non-participation in case of Disclosable Pecuniary Interest**

A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:

- (a) disclose the interest
- (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
- (c) not participate in any discussion of, or vote taken on, the matter at the meeting
- (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered
- (e) not seek improperly to influence a decision about that business

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 (see Part 4B Section 12).

Where a Cabinet member discharges a function alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by them, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## 6. **Sensitive interests**

Where you consider that disclosure of the details of a Disclosable Pecuniary Interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a Disclosable Pecuniary Interest, the details of which are withheld under section 32(2) of the Localism Act 2011.

## 7. **Dispensations**

The council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

The Monitoring Officer has delegated authority in consultation with a duly appointed Independent Person, to deal with requests for dispensations without the need for a meeting of the Appeals Committee where that is deemed to be appropriate.

Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Disclosable Pecuniary Interest that relates to the functions of the council in respect of:

- (a) housing, where you are a tenant of the council, provided those functions do not relate particularly to your tenancy or lease;
- (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and

A councillor seeking a dispensation should submit an application in writing to the Monitoring Officer (see Dispensations Protocol at Part 5 Section 6).

### **Offences**

It is a criminal offence to:

- (a) fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- (b) fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register;
- (c) fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting;
- (d) participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interests;
- (e) as a Cabinet Member discharging a function acting alone, and having a Disclosable Pecuniary Interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and,
- (f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### **8. Personal Interests**

In addition to Disclosable Pecuniary Interests, you must, within 28 days of your election or appointment to office notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

You must also, within 28 days of becoming aware of any new interest or change to any personal interest, notify the Monitoring Officer of the details of that new interest or change.

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.

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 wellbeing or financial position, of themselves, a member of their family or person with whom they have a close association, more than other council tax payers, ratepayers or inhabitants of the authority's area.

A member must disclose a personal interest at a meeting where they consider it is 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.

Where you have a personal interest but sensitive information relating to it is not registered in your register of interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Disclosure of a personal interest will only affect your ability to participate in discussion or vote on the relevant item if it is also a Disclosable Pecuniary Interest OR if it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close associate, friend or a family member). In either case you should declare this interest and leave the room during its consideration.

Where an individual Cabinet member has a personal interest in any business and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **9. Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the council's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## **10. 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.

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

## **11. Complaints procedure**

Under Section 28(6) and (7) of the Localism Act 2011, the council must have in place arrangements under which allegations that a councillor or co-opted member has failed to comply with Code can be investigated and decisions made on such allegations.



Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

Details of the complaints procedure can be found on the council's website.

## **12. Sanctions for breaches of the Code of Conduct**

The Isle of Wight Council has delegated to the Monitoring Officer and the Appeals Committee such of its powers to take action in respect of individual members (including parish council members) as may be necessary to promote and maintain high standards of conduct. If, following an investigation, it is established that a member has failed to comply with their council's Code of Member Conduct, one or more of the following sanctions may be applied:

- (a) Publish findings in respect of the member's conduct;
- (b) Report findings to the relevant council for information;
- (c) Recommend to the relevant council that the member be issued with a formal censure or be reprimanded;
- (d) Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the relevant Council or committees) that they be removed from any or all committees or sub-committees of the council;
- (e) Where Executive arrangements exist, recommend to the Executive Leader that the member be removed from Cabinet, or removed from particular portfolio responsibilities;
- (f) Arrange or recommend training for the member;
- (g) Remove or recommend the removal of the member from all outside appointments to which they have been appointed or nominated by their council;
- (h) Withdraw or recommend withdrawal of facilities provided to the member by their council, such as a computer, website and/or email and internet access;
- (i) Exclude or recommend the exclusion of the member from their council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings.

The council has no power to suspend or disqualify a councillor or to withdraw a councillor's basic or special responsibility allowance.

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## 5. Member Code of Conduct Complaints Procedure

### Introduction

The Localism Act 2011 requires local authorities to establish arrangements to deal with allegations of breaches by councillors of the Members' Code of Conduct.

This procedure is to be adopted when dealing with complaints against elected councillors and voting co-opted members when they are acting in that capacity. The procedure applies when a complaint is received that an Isle of Wight Council member, an Island town/parish council member or a voting co-opted member has, or may have, failed to comply with the relevant Members' Code of Conduct at the time of the alleged breach.

The Isle of Wight Council's Members' Code of Conduct (see Part 5 Section 4). Parish and Town Councils can determine their own codes of conduct – to inspect them, view their [contact details](#).

### COMPLAINTS PROCEDURE

In this procedure, the person making a complaint is referred to as “the complainant” and the person against whom a complaint is made is referred to as “the subject member”.

A complaint is confidential and remains so until the complaint is resolved.

A complainant may request that a complaint be withdrawn at any stage and all such requests will be determined by the Monitoring Officer, which may include consultation with a Designated Independent Person<sup>18</sup>.

Complaints can be made about a subject member breaking any part of their council's Members' Code of Conduct when they are acting (or giving the impression they are acting) as a representative of their council or undertaking council business.

This includes:

- Treating others with respect
- Bullying
- Intimidating a complainant or witness
- Compromising the impartiality of officers
- Bringing their council/office as councillor or executive member into disrepute
- Disclosing information given in confidence/confidential information unless:
  - They have consent; or
  - Are required to do so by law; or
  - Disclosure to obtain professional advice; or
  - Disclosure is reasonable, in the public interest, in good faith and in compliance with reasonable requirements of the council
- Using their position improperly to obtain advantage or disadvantage for anyone
- Using council resources for political purposes
- Preventing anyone accessing information they have a legal right to
- Failing to register financial or other interests

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<sup>18</sup> A Designated Independent Person is someone who is independent of the council or any political group and who has experience of dealing with ethical issues. They are appointed for the Monitoring Officer or councillors to consult with on complaints.

- Failing to disclose a pecuniary interest at a meeting
- Failing to register any gifts or hospitality worth over £50 received in their role as a councillor

If none of the above applies, it will probably not qualify as a valid complaint.

### **Making a complaint**

A complaint should be made in writing by filling in a [complaint form](#) within 10 working days of the alleged breach of the Members' Code of Conduct. Any documents that support a complaint should accompany the form.

A complaint will normally be acknowledged within 10 working days of receipt and the complainant advised if the complaint will be passed for initial assessment by the Monitoring Officer or rejected.

Complaints may be rejected:

- where a member is not named
- where the complainant is not named<sup>19</sup>
- if they relate to a person who is no longer a member or which refer to alleged incidents before the person became a member
- that are not in writing
- that relate to a person who is not an elected or a voting co-opted member of the Isle of Wight Council or an Island town/parish council
- that relate to incidents or actions that are not covered by the Members' Code of Conduct
- where they are about the actions (or inactions) of the Isle of Wight Council as a whole (these complaints should be dealt with through the [Council Complaints Page](#))
- where they relate to a member's personal or private life
- contain insufficient information
- about people employed by local authorities
- if they refer to alleged incidents which happened so long ago that there would be little benefit in taking action now
- if they contain trivial allegations, or which appear to be malicious, politically motivated or tit-for-tat;
- that relate to alleged behaviour that has already been the subject of an investigation or some form of action

Where the Monitoring Officer decides to reject a complaint, they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. In these circumstances, there will be no right of appeal.

### **Informal resolution**

If the complaint is accepted, the Monitoring Officer will write to the complainant and explain that the matter is to be dealt with under this procedure. The subject member will be sent a copy of the complaint and will also be sent contact details of a Designated Independent Person. In this correspondence, the Monitoring Officer will:

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<sup>19</sup> Complaints that contain a request for the complainant's identity to be withheld may be accepted, although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

- (a) seek confirmation from the complainant as to what form of informal resolution they would find acceptable; and
- (b) provide the subject member with a reasonable timescale (usually 20 working days) within which to attempt to informally resolve the complaint

Types of informal resolution might include:

- (a) An explanation by the subject member of the circumstances surrounding the complaint
- (b) An apology from the subject member
- (c) Agreement from the subject member to attend relevant training or to take part in a mentoring process
- (d) Offering to engage in a process of mediation or conciliation between the subject member and the complainant
- (e) Correcting an entry in a register
- (f) Any other action capable of resolving the complaint

Where the subject member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject member of this decision.

If the complaint makes allegations that a criminal offence may have been committed, then the matter will not be dealt with under this procedure, but instead will be referred to the police.

## **INVESTIGATION PROCEDURE**

Where it has not been possible to informally resolve matters, the complaint will be referred by the Monitoring Officer to an officer, an officer of another authority or such other expert as the monitoring officer considers appropriate for investigation. The Monitoring Officer will notify both the complainant and the subject member of this decision.

When notifying the persons mentioned above, the Monitoring Officer will request that they respond within 10 working days:

- Listing any documents which they would wish to be taken into account in any investigation of the allegation, providing copies of these documents, and confirming where the original documents may be inspected.
- Providing the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish to be interviewed in the course of any investigation of the allegation.
- Providing any information which they would wish to be sought from any person or organisation in the course of any investigation of the allegation.

The officer responsible for the investigation will take into account both the content of the original complaint and any information received from the persons notified above. They will make any further necessary enquiries, following which they will determine whether or not there appears to have been any breach of the Members' Code of Conduct.

Upon conclusion, the Investigating Officer will provide the Monitoring Officer with a report setting out their findings and whether or not, in the officer's view, there have been any breaches of the Members' Code of Conduct.

The investigation will normally be carried out and the report provided to the Monitoring Officer within 30 working days of the investigation being commissioned.

## **Outcome of investigation**

The Investigating Officer's report will set out:

- The details of the allegation
- The relevant provisions of statute, the Members' Code of Conduct and any relevant local protocols
- The subject member's response to notification of the allegation (if any)
- The views of a Designated Independent Person
- The relevant information, advice and explanations obtained in the course of the investigation
- Any documents relevant to the matter
- A list of those persons they have interviewed and those organisations from whom they have sought information
- A note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to cooperate
- A statement of their draft findings of fact
- Their conclusions as to whether or not the subject member has failed to comply with the Members' Code of Conduct

If the Investigating Officer's conclusion is that there has been no breach of the Members' Code of Conduct, the complainant and the subject member will be notified. In these circumstances, there will be no right of appeal.

If the Investigating Officer's conclusion is that there has been a breach of the Members' Code of Conduct, consideration will be given by the Monitoring Officer, in liaison with a Designated Independent Person (where appropriate), whether or not an informal resolution between the parties would be appropriate.

Where an informal resolution is considered appropriate, this will be discussed with the complainant and the subject member. Should an informal resolution be agreed, the complaint will not proceed any further.

Should either the complainant or the subject member not agree the proposed informal resolution, or an informal resolution is not considered appropriate, the matter will be referred to the Appeals Sub-Committee for final decision.

## **HEARING PROCEDURE**

Where the matter is referred to the Appeals Sub-Committee for decision, the complainant, the subject member, a Designated Independent Person and, where appropriate, the relevant political group leader and/or the clerk of the parish or town council concerned, will be advised of the position and consulted on the date of the Sub-Committee hearing.

Democratic Services will arrange a convenient time and date for the Sub-Committee to meet and determine the matter. It is anticipated that a hearing will be dealt with on a single day.

At least 20 working days before the hearing, the complainant, the subject member and a Designated Independent Person will be notified of the date, time and place of meeting, provided with the agenda for the meeting and a copy of the investigation report. They will be invited to attend and identify any witnesses already interviewed that they wish to speak.

At the same time (and where appropriate), the relevant political group leader and/or the clerk of the parish or town council concerned will be notified of the date, time and place of meeting, provided with the agenda for the meeting and a copy of the investigation report.

The documentation sent out must be treated by all recipients as confidential information until such time (if any) as the report is made available to the press and public or the Sub-Committee resolves that the press and public should not be excluded from the meeting at which the allegations are heard.

The date of the meeting and the agenda will be published on the council's website.

Determination of the matter by the Appeals Sub-Committee will normally be made within 65 working days of referral of the matter to the Sub-Committee.

### **Appeals Sub-Committee hearings**

The Appeals Sub-Committee is made up of three members of the Isle of Wight Council. In addition, where the subject member is a parish/town councillor, another parish or town councillor will be co-opted as a non-voting member of the Sub-Committee.

The Appeals Sub-Committee will determine whether or not it agrees with the Investigating Officer's conclusions, whether there has been a breach of the Member's Code of Conduct and, if so, what (if any) sanctions should be applied. In so doing, they may seek the views of a Designated Independent Person.

Where a witness has been interviewed and their information is included in the Investigating Officer's report, should they not attend, the Sub-Committee will give such weight to their comments as it considers appropriate.

The Appeals Sub-Committee's decision as to whether or not there have been any breaches of the Members' Code of Conduct shall be final. This also applies to any sanctions imposed or recommended by the Sub-Committee for any such breaches of the Code.

If at any point during the hearing process, the subject member resigns, loses their seat, is seriously ill or has died, the Appeals Sub-Committee will only hear the matter if it considers it is in the public interest to do so.

### **Representation**

The subject member may be represented or accompanied during the hearing by another person as long as the Sub-Committee or its chairman has given prior consent.

The subject member may make representations (orally or in writing) or present evidence in accordance with this procedure either personally or through their representative. The Sub-Committee will not normally permit the subject member and their representative to both make representations, although the subject member may present evidence themselves whether or not represented.

### **Outline of the Procedure for the Hearing**

The Appeals Sub-Committee may govern its own procedure as long as it acts fairly. It may request advice from the Monitoring Officer (or Deputy) at any time. However, in general the following procedure should be adopted:

- (a) Hearings should normally be held in private unless the Sub-Committee has resolved not to exclude the press and public from all or any part of the hearing in accordance with the council's Access to Information Rules.
- (b) Any submissions by either party about the conduct of the case, including disputes about witnesses, potential new information, new supporting documents etc, should be raised at the commencement of the hearing.
- (c) The sub-committee will adopt as far as reasonably practicable an inquisitorial approach to the hearing rather than permit an adversarial or hostile approach to develop.
- (d) Witnesses are not to be present in the hearing until they have been called to give their evidence.
- (e) If the subject member is not present, then the Sub-Committee shall consider whether or not to proceed. If the Sub-Committee is not satisfied that there is sufficient reason for the subject member's absence, it may either proceed to consider the matter and make a determination in the absence of the subject member, or adjourn the hearing to another time or date. If the Sub-Committee is satisfied there is sufficient reason, it shall adjourn the hearing to another date unless the subject member has indicated that the hearing should proceed in their absence.

### **Order of witnesses**

- (a) The Investigating Officer presents the evidence on which they rely and calls any witnesses;
- (b) The Investigating Officer makes submissions about whether the facts constitute a breach of the Member's Code of Conduct;
- (c) The Investigating Officer makes submissions as to the seriousness of the breach and the appropriate sanction in the event that the Sub-Committee decides that a breach has occurred;
- (d) The subject member and members of the Sub-Committee may ask questions through the chairman of the Investigating Officer and/or their witnesses;
- (e) The subject member may present evidence on which they rely and call any witnesses referred to in the investigating officer's report;
- (f) The subject member may make submissions about whether the facts constitute a breach of the Member's Code of Conduct;
- (g) The subject member may make a statement in mitigation in regard to the seriousness of the breach and the appropriate sanction in the event that the Sub-Committee decides that a breach has occurred;
- (h) The Investigating Officer and members of the Appeals Sub-Committee may ask questions through the chairman of the subject member and/or their witnesses;
- (i) The Appeals Sub-Committee retires to decide the facts and whether, on the balance of probabilities, there has been a breach of the Members' Code of Conduct. At this point, the Sub-Committee is likely to ask all present to leave the room whilst they consider the matter.
- (j) Once the Sub-Committee has concluded its findings as to whether the facts amount to a breach, all return to the room and the decision is read out.

### **Outcome**

If the Appeals Sub-Committee decides there has been a breach of the Members' Code of Conduct, then it can determine whether and, if so, which of the following sanctions should apply:

- (a) Publish findings in respect of the subject member's conduct;
- (b) Report findings to the relevant council for information;



- (c) Recommend to the relevant council that the subject member be issued with a formal censure or be reprimanded;
- (d) Recommend to the subject member's political group leader (or in the case of un-grouped members, recommend to the relevant council) that they be removed from any or all committees or sub-committees of the council;
- (e) Where Executive arrangements exist, recommend to the Executive Leader that the subject member be removed from Cabinet, or removed from particular portfolio responsibilities;
- (f) Arrange or recommend training for the subject member;
- (g) Remove or recommend the removal of the subject member from all outside appointments to which they have been appointed or nominated by their council;
- (h) Withdraw or recommend withdrawal of facilities provided to the subject member by their council, such as a computer, website and/or email and internet access;
- (i) Exclude or recommend the exclusion of the subject member from their council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings.

The Appeals Sub-Committee has no power to suspend or disqualify a member or to withdraw a member's basic or special responsibility allowance.

If the matter relates to a parish/town councillor, then if a breach has been determined, the matter is referred to that parish/town council with recommendations as to what action they may wish to take. The clerk to the parish/town council will be expected to confirm to the Monitoring Officer as soon as reasonably practicable what action the parish/town council proposes to take in response to the recommendation.

The Sub-Committee will issue a formal written decision together with supporting reasons as soon as practicable after the end of the hearing and in any event within 10 working days.

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## 6. Dispensations Protocol

### Guide to Dispensations

The council is responsible for determining requests for a dispensation by a councillor under s.33 of the Localism Act 2011. The council may grant a dispensation to an elected or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

This guide explains:

- (a) The purpose and effect of dispensations
- (b) The procedure for requesting dispensations
- (c) The criteria applied in determining dispensation requests
- (d) The terms of dispensations

Until a dispensation is granted, a member may not participate in the consideration of the matter before the council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

A member may also have a close Personal Interest under the Member Code of Conduct and should also use this same procedure to request a dispensation in respect of that interest.

### Purpose and effect of dispensations

In certain circumstances, members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or a close Personal Interest. Provided members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Section 31(4) of the Localism Act 2011 states that dispensations may allow the member to:

- (a) participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- (b) participate in any vote, or further vote, taken on the matter at the meeting(s)

If a dispensation is granted, the member may remain in the room where the meeting considering the business is being held.

**Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.**

The same procedure will be used for applications close Personal Interests, enabling a member to remain in the meeting and to speak and vote.

### Process for making requests

A request for dispensation must be made on an individual basis. Any member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

### Approval Process

The Monitoring Officer may only grant a dispensation to a member who has a Disclosable Pecuniary Interest or close Personal Interest, allowing them to participate in any discussion of a

matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) without the dispensation, each member of the authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive,
- (d) granting the dispensation is in the interests of persons living in the authority's area, or
- (e) it is otherwise appropriate to grant a dispensation.

In the absence of the Monitoring Officer, the Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Appeals Committee also has the delegated power to agree dispensations.

Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Appeals Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the chairman of the committee. Applications must be received at least 10 working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.

The Monitoring Officer will formally notify the councillor of the decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

### **Criteria for determination of requests**

In reaching a decision on a request for a dispensation, the Monitoring Officer (in consultation with a Designated Independent Person) will consider:

- (a) The nature of the member's interest
- (b) The extent to which the request could have been avoided or other arrangements could be made
- (c) The need to maintain public confidence in the conduct of the council's business
- (d) The extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
- (e) The possible outcome of the proposed vote
- (f) The need for efficient and effective conduct of the council's business
- (g) Any other relevant circumstances

### **Terms of dispensations**

Dispensations may be:

- (a) Granted for one meeting or for a period not exceeding 4 years
- (b) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

## **Disclosure of decision**

Any member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

A copy of the dispensation will be kept with the Register of Members' Interests.

## **Dispensations for Conflicts of Interest when taking Executive decisions**

Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:

- (a) details of any conflict of interest either declared by any member of the body which made the decision or declared by any Executive member consulted by the councillor or staff member taking the decision which relates to that decision;
- (b) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a councillor's duty to take decisions only in the public interest in the light of material considerations.

## **Appendix 1**

To: The Isle of Wight Council's Monitoring Officer

### **APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST**

#### **Name of member:**

A member who has a Disclosable Pecuniary Interest or close Personal Interest in a matter that is under consideration may not participate in the consideration of that matter by the council, a committee or sub-committee or by the Executive or a committee of the Executive unless they have first obtained a dispensation from the council.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

#### **1. What is the matter for which dispensation is sought?**

Please provide full details including amounts where the matter involves funding or finance.

#### **2. For which type of meeting is dispensation sought?**

(Full Council, Cabinet, Committee or Sub-Committee)

#### **3. What is the nature of the Disclosable Pecuniary Interest or close Personal Interest?**

Please provide full details.

#### **4. What is the date of the meeting(s) at which this matter is to be considered?**

#### **5. For how long is the dispensation needed?**

Please note that it cannot be longer than 4 years nor exceed the term of office of the member concerned.

**6. Do you benefit personally from the business to which this application relates?**

If "yes" the full details must be provided of the nature and extent.

**7. How is the business of the council being impeded in the absence of a dispensation?**

**8. Are there any other factors that might help the council to reach a decision on the application?**

**9. Are you seeking a dispensation to speak and vote?**

Yes/ No

**10. Are you seeking a dispensation to speak but not vote?**

Yes/ No

**Signed: \_\_\_\_\_ Date: \_\_\_\_\_**

Please complete, sign and return this form to the Monitoring Officer

## 7. Gifts and Hospitality Protocol

### Introduction

The public are entitled to demand of local government staff and councillors, 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.

It is a serious criminal offence for staff or councillors 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 staff member or councillor to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for all employees and councillors.

This protocol is intended to assist staff and councillors 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. Councillors are reminded that a breach of this guidance may result in a complaint against them to the Monitoring Officer.

### Gifts

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.

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.

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 [insert details of gift]. 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.”*

For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.

If in doubt, staff should consult their Director before accepting any gift. Councillors should consult the council's Monitoring Officer.

### Legacies

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 Director as soon as possible. The Director 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 Director as soon as they are aware of the legacy in order to avoid any misinterpretation.

## Hospitality

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.

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 councillors. 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.

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

- (a) 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.
- (b) whether the council's interest is better served by attendance.
- (c) whether the scale of the hospitality is appropriate to the circumstance.
- (d) whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
- (e) whether the hospitality is offered by a person or organisation who is not tendering or about to tender for council business.
- (f) whether councillors are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
- (g) whether it is more appropriate to bear the expense oneself.

Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant Director. In case of doubt, staff should consult their Director for guidance. In the case of councillors, 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.

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 [insert details of hospitality]. Unfortunately, the council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."*

Below are some examples of acceptable and unacceptable hospitality:

### Acceptable

- (a) working lunches, provided their purpose is to continue the work underway in the meeting
- (b) attendance in an official capacity at functions to which invitations have been sent to other local authorities

### Unacceptable



- (a) holidays or weekends away
- (b) the use of a company flat or suite
- (c) lunch with a developer who is applying for planning permission
- (d) tickets to a theatre, concerts or sporting events that are offered in order to influence decisions and which you would not attend in an official capacity

### **Recording of Gifts and Hospitality**

Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each service's register maintained for such purposes. For councillors, the register is maintained by Democratic Services. Councillors only need to record 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, which includes the following detail:

- (a) employee's/member's name
- (b) job title (if staff)
- (c) name of company/organisation making the offer
- (d) relationship with council
- (e) nature of gift/hospitality offered
- (f) date offered
- (g) whether declined or accepted.

Registers of gifts and hospitality will be reviewed at least quarterly by the relevant Director. The Head of Paid Service will review the register of Directors. The Monitoring Officer will review the register of councillors' registrations and the register of the Head of Paid Service. All such reviews will be evidenced by signature and date.

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

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

#### 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

#### Local Government Act 1972

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

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## **8. Protocol for Member/Officer/Staff Relations**

Good member/officer/staff relations, based on mutual respect and understanding, are essential to the effective operation of the council. Members and Officers/Staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. At the heart of the Members' and Officers' Codes of Conduct and this protocol, is the importance of mutual respect. Member/officer/staff relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers/staff should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

### **Role of Members**

Members are responsible to the electorate and serve only so long as their term of office lasts. The Constitution sets out detailed job profiles reflecting the many and varied roles and responsibilities which members may take on at various times whilst they sit on the council. In undertaking those roles and responsibilities, elected councillors are required to operate within the law, the Constitution and within local and national codes and protocols. Members must always act in the public interest. Ultimately however, members are accountable to the electorate through the ballot box.

### **Role of Officers/Staff**

Officers are paid by the council and staff are paid employees of the council (not of elected members). Officers/staff are also required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the council. Ultimately, officers are accountable under their contracts and staff are accountable under their contracts of employment. Some officers/staff are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties

Officers/staff have a duty to provide information, advice and recommendations to elected members. Such information, etc, can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.

It must be recognised by all officers/staff and members that in discharging their duties and responsibilities, officers/staff serve the council as a whole and not any political group, combination of groups or any individual member of the council.

Proper, open dialogue between elected members and officers/members of staff of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the council, certain principles should be followed.

### **Member Decision Making**

Officers/staff should never lobby members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.

The principal focus of member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example

in relation to development management and licensing matters, to which specific codes of practice apply.

Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant officers.

Accordingly, members should not purport to give instructions directly to officers/members of staff on an informal basis, except to the small number of officers/staff contracted/employed specifically to provide support services to elected members.

Members need to be aware that some, particularly more junior, officers/members of staff can feel intimidated by direct approaches by members, and in particular should avoid being in a position where they could be seen as asking an officer to act against council policy, against the officer's/member of staff's professional judgement or otherwise under pressure from the member.

### **Provision of Information**

Members have a need to know a wide range of information, but there are some limits to their rights. In order to protect the council and those about whom information is held, officers/staff are entitled to request members identify the purpose for which they require information. Those purposes may only be in connection with the members' duties as an elected member and not for personal, political or other purposes.

Equally on the rare occasions when a request by a member for information is refused, the member is entitled to request written reasons and that a copy of those reasons is sent to the Monitoring Officer for advice.

### **Officer's/Member of Staff's Advice**

Advice by officers/staff must be confined to council business and must be sought and given, in a manner which will avoid compromising the political neutrality required of employees.

Many officers/members of staff are willing to be contacted by members at home outside normal working hours, but this step should only be taken in cases of genuine importance or urgency or by prior arrangement.

### **Group Briefings**

Political groups may request private and confidential briefings, including the provision of written information on matters of policy, which are, or may become, the subject of discussion by the Full Council, Cabinet or any committee.

Officers/members of staff must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

Attendance by officers/members of staff at group meetings may be requested, but officers will always have the option of declining to attend and giving written advice as an alternative. It is not usually considered good practice for officers to attend such briefings alone.

Officer/staff support must not extend beyond providing information and advice in relation to matters of council business. Officers must not be involved in advising on matters of party business.

Group Leaders and members who receive such advice will treat it as strictly confidential to the council and must ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the council and not to be disclosed further under any circumstances.

In relation to budget proposals:

- (a) The Leader and Cabinet are entitled to confidential information and discussions with officers regarding options and proposals. These will remain confidential until determined by the Executive or until published in advance of Cabinet/Committee/Council meetings, whichever is the earlier; and
- (b) Opposition groups are also entitled to confidential information and discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective political groups or until published in advance of Cabinet/Committee/ Council meetings, whichever is the earlier. Officers giving such advice must not be named in public.

It must not be assumed by any party group or member that any officer is supportive of any policy or strategy developed because of that officer's/member of staff's assistance in its formulation.

### **Complaints and Criticism**

Neither officers/staff nor members should pass comment about officers/staff in a way which could be taken as personally critical of, or as undermining, that officer/member of staff. Similarly, it is never the role of an officer/member of staff to criticise or undermine a member.

A member should not raise matters relating to the conduct or capability of an officer/member of staff in a manner that is incompatible with the objectives of this protocol. This is a longstanding tradition in public service. An officer/member of staff has no means of responding to such criticisms in public. Complaints about officers should be made to their head of service, or where necessary, to their Director or the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure.

Complaints about elected members should be made to the Monitoring Officer. A breach of this protocol may be evidence of a breach of the Member Code of Conduct.

Except as part of an appointment and employment committee or appeals committee panel, members are prevented by law from becoming involved in matters relating to individual officers/employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of members to access information.

### **Cabinet and Overview and Scrutiny Function**

The Constitution of the council establishes a separation of powers between the Cabinet and the scrutiny committees. Officers/staff owe an equal duty to both the Cabinet and the Overview and Scrutiny function. Sometimes real or perceived conflicts may arise, for example, when the scrutiny function wishes an officer/a member of staff to explain their advice in relation to a controversial policy or decision. In such circumstances, conflict can be avoided by officers advising impartially on the relative merits of alternative approaches.

## **Advice and Guidance**

This protocol deals with general principles and is not designed to address particular circumstances. Advice can be sought from the Monitoring Officer or Chief Executive whenever difficult situations arise.

## **Personal/Family/Financial Relationships**

Usually it is incompatible with good member/officer/staff relations for close personal, or any financial, relationships to develop between officers/staff and members. Very occasionally there may be exceptions to this rule, and/or that family relationships will exist.

Where there are unusually close relationships (and in the case of any financial relationships) guidance should be sought and the relationship notified in writing to the officer's/employee's Director (or in the case of Directors to the Chief Executive).

## **9. Employee Code of Conduct**

### **Introduction**

Island residents, visitors to the Island and service users expect to receive the highest standards of loyalty, integrity and capability from officers of the council. The purpose of this code is to clearly set out what these standards are for employees' benefit and how the council undertakes to apply it consistently and fairly. It is the responsibility of employees to work in accordance with this code and managers' responsibility to ensure that the code is fairly and consistently applied.

The code sits alongside all other council policies and outlines standards for employees to follow in their day-to-day work. The code reproduces points of principle which have applied in local government for very many years but it also deals with challenges that employees might well face.

The code has been prepared with the intention of setting down the basic rules and principles that govern the way employees should work and to build on the National Code of Conduct for Local Government Employees, embracing the Nolan Committee's seven principles of public life.

This code also explains how employees are expected to deal with conflicts of interest, confidential matters and offers of gifts or hospitality and, where necessary, examples and explanations have been given, however it is important to note that this is not an exhaustive list.

If employees breach this code they may be subject to disciplinary action and in the event of a serious breach, dismissal may occur.

### **Standards**

Local Government is justifiably proud of its high standards of official conduct and is committed to them being maintained. Employees have a part to play in ensuring that these high standards continue to be met. Employees are expected to give the highest possible standard of service to the public and service users. This includes, where it is part of their duties, providing appropriate advice to councillors and fellow employees with impartiality.

It is recognised that employees may be a resident of the Isle of Wight as well. However, they need to be aware that the actions they take as a resident could potentially be seen as acting against the council. Actions which have the potential to bring the council (their employer) into disrepute, to harm public perception or cause reputational damage to the council will be dealt with through the appropriate procedure.

Through agreed procedures and without fear of recrimination, employees are expected to bring to the attention of their immediate line manager any impropriety or breach of procedure. Further guidance can be found via the Whistleblowing at Work Policy. If for any reason employees do not feel it is appropriate to express their concern to their immediate line manager, they should inform either their manager's manager, or the Monitoring Officer. They should not feel afraid to express their concerns as these will be treated confidentially and they will not be penalised in any way.

Dress attire is recognised to be service area/position specific given the varying nature of the roles throughout the council. Any 'dress codes/ requirements' should be confirmed via employees' service manager and must be Health and Safety compliant (where applicable).

## **Disclosure of Information and Confidentiality**

Employees of the council must not use any information obtained or created in the course of their employment for personal gain or benefit, nor shall they pass it on to others who might use it in such a way. Unauthorised disclosure is a serious breach of trust between employees and the council. Any inappropriate use of information in this manner may constitute a criminal offence which would be referred to the police and/or the appropriate policy. If employees are unsure of what they can or can't do with information that they are processing, they should seek the advice of their manager or the Corporate Information Unit.

The ownership of material that benefits from copyright created during the course of employees' employment will belong to the Isle of Wight Council unless there is an express written agreement to the contrary. Any infringement of material which belongs to the council will be pursued through the civil or criminal courts.

The law requires that certain types of information must be available to elected councillors, auditors, government departments, service users and the public. Under the Local Government Act 1972, the public have the right to access certain information. In most circumstances, these rights are related to committee reports and background documents. However, certain information within the committee process is not public, including confidential information as defined by the Act and information exempted by virtue of schedule 12A of the same Act. Any confidential information or exempted information should only be disclosed where required to do so by law or with consent of the Monitoring Officer. In addition, the council is obliged by law and in accordance with its Access to Information rules (see Part 5 Section 2) to ensure that information is available upon request subject to limited exemptions. Employees must also ensure they provide appropriate access and security of information that the Isle of Wight Council holds.

Employees may only talk to the press or media if they are authorised to do so as part of their duties and responsibilities, or otherwise make public statements on behalf of their service. Generally, if they are contacted by the press or media, they should inform their line manager or a senior manager and refer the matter to the Communications Team who will deal with it appropriately.

Former employees of the Isle of Wight Council shall not divulge any council information obtained in the course of their employment to any third party except where required by law to do so. This is taken extremely seriously as a serious breach of trust and confidence.

## **Political Neutrality and Activity**

Employees serve the council as a whole. It follows, therefore, that they must serve all elected councillors, not just elected councillors of the controlling group, and must ensure that the individual rights of all elected councillors are respected.

In some instances, if they are a senior employee, they may be expected to advise political groups in an official capacity but they should not do so without the knowledge and consent of their line manager.

Employees are not eligible to stand for office as a member of the Isle of Wight Council. Involvement in parish council activities is not precluded provided they complete an additional employment form; their line manager gives them permission; and any conflict of interest is declared to the Strategic Manager. If their post has been assessed as being politically restricted, they are prevented from taking part in certain political activities outside their work, of which they would have received formal confirmation from Human Resources where this applies. If they have



any doubt about their position they should contact their line manager. The political activities which are restricted for these posts mainly cover the following areas:

- (a) Standing as a candidate for election to the House of Commons, the European Parliament, or a Local Authority (other than a parish council).
- (b) Holding office with a political party, or a committee or sub-committee member of a party.
- (c) Canvassing at an election.
- (d) Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

If employees are in any doubt about whether any activity is political activity and covered by these rules they should seek advice from their line manager or the Monitoring Officer.

Whether or not their post is politically restricted, they must follow all policies of the council and must not allow their own personal or political feelings interfere with their work.

## **Relationships**

### *Elected Councillors*

Employees should ensure that they comply with the Protocol for Member/Officer Relations (see Part 5 Section 8). They may be required to give advice to elected councillors as part of their job. Mutual respect between employees and elected councillors is essential to good local government, but close personal familiarity between employees and individual elected councillors, which goes beyond mere acquaintance can damage the relationship, prove embarrassing to other elected councillors and other employees and should therefore be avoided. If employees have previously had or currently have a relationship in a private or domestic capacity with any elected councillor, they must declare that relationship in writing to their line manager. Further information can be found via the council's register of employee's personal interests.

### *The Local Community and Service Users*

Employees should always remember their responsibility to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

### *Contractors*

All relationships with contractors or potential contractors must be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. If employees have such an interest they must not be involved in any way in placing orders or awarding any work.

If employees engage or supervise contractors as part of their duties, or have an official relationship with contractors and have previously had or currently have a relationship in a private or business capacity, they must declare that relationship in writing to the appropriate manager and ensure they comply with the council's register of employee's personal interests.

## **Appointment and Other Employment Matters**

If employees are involved in the appointment of staff, they must ensure that these are made on the basis of merit. It would be unlawful for employees to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any bias,

employees must not be involved in an appointment where they are related to an applicant, or have a business or personal relationship outside work with them. Similarly, employees must not canvass on behalf of any applicant.

Employees must not line manage nor be involved in decisions related to the appointment, informal/formal discipline, grievance, capability proceedings, promotion or pay adjustments for any other employee who is a 'close associate' – this includes a family member or friend. A family member could include, but is not limited to:

- Husband/Wife/Partner
- Parent
- In-laws
- Niece/Nephew
- Step-relations
- Son/Daughter
- Sibling
- Aunt/Uncle
- Cousin
- Grandparents

### **Outside Commitments and Personal/Business Interests**

Employees must ensure that they have read and comply with the council's register of employees' personal interests. They must declare their membership or personal relationship involving any organisation that is not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules for membership or conduct.

Employees must ensure that any work carried out outside of their role in the council, whether it is paid, unpaid or voluntary, is declared through the additional employment form which can be found in the Additional Employment Policy and should be discussed and agreed with their line manager before accepting such work.

Further information regarding outside commitments and personal/business interests can be found via the Additional Employment Policy.

### **Equality**

Employees have an obligation to ensure that policies relating to equality are agreed by the council are complied with in conjunction with the requirement of the law. All members of the local community, customers and colleagues, have a right to be treated with fairness, dignity, equity and respect. Further guidance on equality can be found via the Equality Policy Statement and Guidance.

### **Separation of Roles during Tendering**

Employees should comply with the council's procurement code and be clear on the separation of client and contractor roles within the council. If they are a senior employee who has both a client and contractor responsibility, they must be aware of the need for accountability and openness.

If employees are in contractor or provider units, they must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors and must not show any favouritism.

If employees are privy to confidential information on tenders or costs for either internal or external contractors, they must not disclose that information to any unauthorised party or organisation.

## **Corruption**

It is potentially unlawful for employees to receive any reward or fee other than the pay and benefits that they are entitled to under their contract of employment. It is a criminal offence for employees 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 their official capacity. Employees should ensure compliance with the council's Counter-Fraud and Corruption Strategy at all times.

## **Use of Financial Resources**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and in accordance with the council's Financial Regulations and Anti-Money Laundering Policy.

## **Gifts and Hospitality**

Employees must read and comply with the council's Gifts and Hospitality Guidance which forms part of the council's Constitution.

## **Sponsorship by Giving and Receiving**

Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntary, basic conventions concerning acceptance of gifts or hospitality apply. Employees must take particular care when dealing with contractors or potential contractors.

Where the council wishes to sponsor an event or service, employees or any partner, spouse or relative must not benefit from such sponsorship without there being full disclosure to their line manager of any such interests. Similarly, where the council, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

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## **10. Monitoring Officer Protocol**

### **Statutory Responsibilities**

The Monitoring Officer is a statutory appointment under the provisions of section 5 of the Local Government and Housing Act 1989. This protocol sets out how the duties of the Monitoring Officer will be carried out.

The Monitoring Officer's responsibilities will be carried out in accordance with the authority's policies, legislative requirements and relevant government guidance. The Monitoring Officer's ability to carry out these duties and responsibilities effectively will depend on the proactive assistance and cooperation of councillors and staff.

### **Working Arrangements**

The Monitoring Officer will promote effective working relationships with councillors and staff members to advance good governance, the highest standards of ethical behaviour and the effective discharge of the Monitoring Officer's statutory and discretionary duties. A speedy flow of relevant information and access to debate, particularly at the early stages of any decision-making by the authority, is central to fulfilling those responsibilities. Councillors and staff agree to work with the Monitoring Officer, and staff in Legal and Democratic Services to this end.

### **Resources**

The authority agrees to provide the Monitoring Officer with sufficient staff, accommodation and resources to discharge their statutory functions. The Monitoring Officer will appoint such Deputy Monitoring Officers as they think fit and will keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.

### **Access to Information**

The Monitoring Officer will be kept informed by councillors and staff of any issues that may become of concern to the authority, including, issues concerning legal powers, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen.

The Monitoring Officer will be given advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions may be taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken).

The Monitoring Officer will have the right to attend (including the right to be heard at) any meeting of the authority (including meetings at which officer delegated decisions may be taken) before any binding decision is taken (including a failure to take a decision where one should have been taken).

The Monitoring Officer will have unqualified access to any information held by the council and to any officer who can assist in the discharge of their functions regarding investigation and determination of complaints.

### **Relationships**

The Monitoring Officer will ensure the authority, its councillors and staff, in particular, the Chief Executive and the Chief Finance Officer are kept up to date with relevant information regarding

any legal, ethical standards, probity, propriety, procedural or other governance issues that are likely to arise or have arisen.

The Monitoring Officer will develop a professional working relationship of respect and trust with the chairman, Leader, party group leaders and other authority members with a view to ensuring the effective and efficient conduct of authority business.

### **Standards Matters**

The Monitoring Officer will give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being submitted). If a formal written complaint is submitted then the Monitoring Officer will ensure that the complaint is dealt with in accordance with the procedure established from time to time by the Monitoring Officer in consultation with the chairman of the Appeals Committee.

### **Dispensations**

The Monitoring Officer has been delegated the authority, 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 (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

## **11. Recording, Photography and Use of Social Media Protocol**

The purpose of this protocol is to provide guidance, particularly for members of the press or public, on reporting of any council meeting which is held in public. It applies to any Council, Cabinet or committee meeting that is open to the public.

The council allows members of the public or press to report on all public meetings, subject to the limited exceptions outlined below. The term 'reporting' includes the taking of photographs, filming, audio-recording, tweeting, blogging or generally reporting on proceedings.

Those wishing to undertake any reporting of meetings are asked to advise a member of Democratic Services staff in advance of the meeting of their intention to do so, as explained below, in order to allow necessary arrangements to be made, if required.

The chairman of the meeting shall advise those present at the meeting that proceedings may be recorded if advance notice has been received.

Although there is a legal right to allow reporting of council meetings, the proceedings of that meeting must not be disrupted by the use of any equipment or the manner in which the reporting is undertaken. It is also important that reporting does not inhibit community involvement in the proceedings.

### **Guidelines for reporting**

Any member of the public or press wishing to report a public meeting should ensure that:

- (a) Any photography or audio/visual recording must take place from a fixed position in the meeting room approved by the chairman so as to minimise disruption to the proceedings
- (b) The use of flash photography, additional lighting, sound booms or other equipment that may, in the chairman's opinion, be likely to be intrusive or in any way interfere with proceedings, will only be allowed if agreed in advance with the chairman.
- (c) If the chairman feels that any photography, audio or visual recording is disrupting the meeting in any way, then the operator of the equipment will be required to stop reporting
- (d) If, during the meeting, a motion is passed to exclude the press and public because confidential or exempt information is likely to be disclosed, then all rights to report the meeting cease and the operator of the equipment will be required to stop reporting and leave the meeting, taking all reporting equipment with them
- (e) They comply with any request made by the chairman regarding respecting the public's right to privacy
- (f) People seated in the public gallery/seating area should not be photographed, filmed or recorded without their consent. This also applies to those individuals who may ask a public question, present a petition or make a representation at a council meeting open to the public and who are not seated in a public seating area
- (g) Photographs, audio, and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

Notices advising the public that the public meeting may be reported on will be displayed in or directly outside the relevant meeting room and this will be noted on the agenda. The chairman will also make an announcement that the meeting may be photographed, recorded or filmed.

### **What if I don't want to be recorded?**

If a member of the public does not wish to be photographed, filmed or recorded, they should inform a Democratic Services officer in advance of the meeting. If anyone is concerned for their personal safety by the recording of the meeting, it may be possible to make alternative seating arrangements or other adaptations.

### **What is the procedure prior to the meeting for those wishing to record or photograph a meeting?**

Members of the public wishing to report on a public meeting should, wherever possible, contact a Democratic Services officer for the meeting concerned (contact details available on the agenda for the meeting; on the council's website; or by email at [democratic.services@iow.gov.uk](mailto:democratic.services@iow.gov.uk)) at least two working days before the meeting. Members of the press should, wherever possible, contact the media team at [mediaweb@iow.gov.uk](mailto:mediaweb@iow.gov.uk) at least two working days prior to the meeting.

The request should include the following information:

- (a) which meeting this request refers to
- (b) the name, organisation (if applicable) and contact details of the person making the request
- (c) what equipment is intended to be used (e.g. camera/audio recorder/video camera, tripod, etc)
- (d) what the photographs or audio/visual recording will be used for and/or where the information is to be published

### **What is the procedure for reporting during the meeting?**

All reporting equipment must be set up before the meeting starts to avoid disrupting the meeting.

If the chairman feels the recording is disrupting the proceedings, the operator of the equipment will be required to stop. If they continue reporting after having been required to stop, then the chairman may ask them to leave the meeting. If they refuse to leave, then the chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

Anyone asked to leave a meeting because they have refused to comply with the chairman's requests may be refused permission to report at future council meetings that are open to the public.

If, during the meeting, a motion is passed to exclude the press and public because confidential or exempt information is likely to be disclosed, then all rights to record the meeting are removed. All equipment shall be removed from the meeting room when members of the public and press are excluded.

If a meeting for which agreement is given to report is adjourned, then any reporting should stop at the point at which the meeting is adjourned.

### **Social media**

There are no restrictions placed on anyone at the meeting using social media, provided that the chairman does not consider their actions are disrupting the proceedings of the meeting.

If the chairman feels the use of social media is disrupting the proceedings, the councillor, member of the public or press representative may be required to stop. If use continues, the chairman will



ask the person to leave the meeting. If the person refuses to leave, then the chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

### **What is disruptive behaviour?**

Essentially, this could be any action or activity which disrupts the proper conduct of meetings.

Examples could include:

- (a) moving to areas outside the areas designated for the public or press without the consent of the chairman
- (b) excessive noise in recording or setting up or re-siting equipment during the debate
- (c) intrusive lighting and use of flash photography
- (d) asking for people to repeat statements for the purposes of recording

### **Can I leave recording equipment in a public meeting room and record without being present?**

There is no legal prohibition, however, under this protocol and council procedure rules, the committee may require any such recording to stop if at any stage the meeting became a private meeting and so someone is required to be present to stop the equipment. In addition, the council will not be responsible for the security of any equipment left unattended.

### **Are there any limits to what I can say in a tweet or video or report I publish?**

The laws of the land apply, including that of defamation and public order offences. Freedom of speech within the law should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others.

### **Will I be able to provide commentary during the meeting?**

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The protocol does not permit oral commentary during a meeting as this would be disruptive to the good order of the meeting.

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## **12. Code of Practice for Members and Officers Dealing with Licensing Matters**

### **The Need for Guidance**

This code has been written to help everyone understand the standards required of the Isle of Wight Council in carrying out its licensing functions.

This code applies to all Isle of Wight Council members and staff involved in the licensing system. It applies equally to the operation of the Licensing Committee and its sub-committees when exercising licensing functions, and the Cabinet and the Full Council in their policy formation functions.

Licensing decision-making relies on informed judgment within a firm policy context. It is also highly contentious because decisions can affect the daily lives of everyone and the private interests of individuals, applicants and residents. This is heightened by the openness of the system, in that it actively invites public opinion on certain licensing functions before taking decisions. It is important, therefore, that the process is characterised by open and transparent decision-making.

The aim of this code is to ensure that the council operates an open and fair system. Failure to follow this code, without good reason, could be taken into account during investigations into possible maladministration or by the courts in considering any appeal.

Councillors and staff are required to read this code thoroughly and put it into practice consistently. It is intended to review the code regularly so that it remains useful and relevant. If any points are unclear or need review, please contact the Monitoring Officer.

### **General Role and Conduct of Members and Officers**

Members and officers have different, but complementary, roles. Both serve the public, but members are responsible to the electorate, while officers are responsible to the council as a whole. A successful relationship between members and officers is based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.

Applicants and the public are entitled to expect high standards of conduct and probity by all people holding public office and, in particular, when dealing with licensing matters. Only material licensing considerations should be taken into account. There are statutory provisions and a code setting standard, which must be followed.

Both members and officers are guided by the codes of conduct contained in the Constitution. The Member Code of Conduct provides guidance and standards for members. Members should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take.

A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting a licence, unless that opposition or support is based upon valid reasons and concerns which can be sustained.

### **Training**

Following council elections, and at intervals thereafter, a range of training seminars are held for members. Guidance is given on the Member Code of Conduct and on licensing matters. No

member may sit on the Licensing Committee or its sub-committees until they have attended the relevant training sessions on licensing matters and the Code of Conduct.

### **Declaration and Registration of Interests**

The law and the codes of conduct set out requirements and guidance for members and officers on declaring interests and the consequences of having such interests.

In summary, the code requires (where members have a conflict of interests) that if the matter to be considered affects:

(a) An item in the members register of interests then a Disclosable Pecuniary Interest must be declared, and the member must not take part in the consideration of the item, and must leave the room. Members with such an interest may have the same participation rights as a member of the public only if a dispensation has been granted, but must leave the room after they have done so. To speak as a member of the public, members must, in addition to having obtained a dispensation, have made a relevant representation during the consultation period in order to speak.

(b) If a member has a close personal interest in an item (say an application submitted by a close family member or a close associate), which is so close that it could give rise to actual or apparent impartiality, bias or pre-determination, then they should declare this interest and leave the room during its consideration. Again, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted. To speak as a member of the public members must, in addition to having obtained a dispensation, have made a relevant representation during the consultation period in order to speak.

Members who have substantial licensing interests, or other interests, which would prevent them from voting on a regular basis, should avoid serving on Licensing Committee or its sub-committees.

Further advice on these matters is available from the Monitoring Officer.

### **Licensing Proposals Submitted by Members and Officers**

All Licensing Services officers and other officers involved in licensing matters shall declare to their head of service any interest which they may have in any third party application (e.g. an application submitted in their immediate neighborhood or by a society or club of which they are a member) and take no part in the determination of that application.

Where a licensing application is made by a Licensing Services officer, or any other officers involved in the licensing process (including members of their close family or close associates), that officer shall play no part in the decision making process. Similar to members, the officers shall not take any part in the committee process if their application is referred to committee and must, if they are present, withdraw from the chamber or public gallery.

At the meeting of the Licensing Committee or one of its sub-committees to which an application submitted by a member of the Isle of Wight Council is being considered, that member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the committee to the same degree as a member of public will be available subject to a dispensation being granted in certain circumstances (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

All members of the council who may be considering the submission of an application are strongly advised to employ the services of an agent to avoid partiality or the perception of partiality, to ensure proper contact with officers during its processing and to address the committee as appropriate.

### **Lobbying of Members and Lobbying by Members**

Licensing decisions must be taken objectively on the basis of relevant information.

Where the Licensing Committee or one of its sub-committees are taking the decision all, and only, relevant information must be presented either in writing or orally to the committee meeting.

It is perfectly proper for elected councillors to give applicants and objector's factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular, members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.

Whilst it will usually be preferable for members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens, they should use a form of words that confirms that whilst they may have a pre-disposition towards a particular outcome, they have not made a pre-determination on the subject, such as *"on the basis of the information I have at the moment I am likely to oppose/support the application, but I will consider all the information available before I make my decision"*. Any Member who makes a stronger statement, such as *"this application will be passed over my dead body"* will not be able to take part in the decision made by the committee.

Members may be lobbied by individuals, groups or other interested parties in a matter, and this is to be expected. However, if a member considers that they are receiving unduly intense or inappropriate lobbying, then they can discuss this with the Strategic Manager for Regulatory and Community Safety Services for further advice.

Members should be particularly careful not to exert pressure on an officer who has to make a recommendation to the Licensing Committee or one of its sub-committees. If any officer believes that pressure is being exerted upon them, they will immediately notify the Strategic Manager for Regulatory and Community Safety Services and/or the Monitoring Officer. In the event that the Strategic Manager for Regulatory and Community Safety Services believes that pressure is being exerted upon their role, they should immediately notify the Director and/or the Monitoring Officer.

Officers may take many licensing decisions under delegated powers. It is similarly unacceptable for those officers to be lobbied by members or be subjected to undue pressure.

### **Bias/Apparent Bias**

Any member who is, or appears, biased towards an issue can leave the decision vulnerable to challenge in the courts. The courts will undertake a detailed investigation of a member's conduct over a period rather than just look at the circumstances relating to that decision itself. It is therefore extremely important that members are well aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality at all material times.

The test for bias applied by the courts in terms of a particular member who participates in the decision-making itself is as follows:

*“Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular member being a member of the relevant decision making body.”*

In recent years the courts have been more willing to find that there has been an appearance of bias:

*“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the Licensing Committee or one of its sub-committees or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the licensing issues.”*

The court will look at the facts in each case. If a member has simply given a view on an issue, this will not amount to pre-determination so as to render the decision vulnerable to legal challenge, as this alone does not show that the member has a closed mind on that issue. Simply due to a member making a public statement about their approach to a licensing matter does not mean that the member cannot participate in the determination of the application.

However, members must be careful to articulate how they phrase statements made. Expressing a view may not disqualify a member on the basis of bias or the Member Code of Conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the member had an open-mind will be of little value – they do not relate to the all-important impression portrayed.

Once the bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the court to exercise its discretion not to do so. It is no answer to suggest that only one member was “guilty” and therefore the decision should stand.

In light of the above, and the obvious issues this raises, the following further guidance is given:

Members of the Licensing Committee attending public meetings should avoid expressing opinions on any current or live licensing matter nor participate in any debate. They must adhere to stating facts only or declare that they are there to listen to other views.

In respect of pending/forthcoming applications (pre-application discussions), members of the Licensing Committee, or local councillors who wish to take part in the debate, should have regard to this code and may take the view that they should not attend/participate in any discussion/public meeting if they wish to take part in the debate and vote on an application.

Members who are not members of the Licensing Committee, and who do not intend to participate in the debate as local councillors, do not need to avoid discussions/meetings, but must at all times have regard to the Member Code of Conduct (see Part 5 Section 4).

### **Parish and Town Councils**

The danger of prejudging an issue arises not just at public meetings but also in parish and town council debates. Taking part in a parish or town council debate does not prevent members from taking decisions at the Licensing Committee or one of its sub-committees or other members from participating in the debate. However, parish and town councils do not have the advantage of licensing advice nor complete information on any application. Contributions by elected councillors at parish or town councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.

When a member has participated in a public debate, at a parish/town council or elsewhere, they should declare this when they speak at the Licensing Committee or one of its sub-committees and should make a clear statement that they have not prejudged the issue.

### **Whipping**

The use of party political whips in licensing decisions would demonstrate a predetermined position and could also be maladministration. Whipping must not therefore take place.

Individual members should reach their own conclusions on licensing matters rather than follow the lead of another Member. However, the views of other members of the committee, where they are relevant, can be one of the factors taken into account when taking a decision.

### **Pre-Application and Discussion Prior to Committee Meetings**

Discussions between a potential applicant and officers of the council prior to the submission of an application and/or prior to a committee meeting can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example to overcome relevant representations submitted by a responsible authority or other persons.

It should always be made clear at the outset that discussions prior to applications and discussions prior to committee meetings will not bind the council to making a particular decision, and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.

Advice should be consistent and based on national and local policies and relevant legislation. There should be no significant difference of interpretation of licensing policies between licensing officers. All officers taking part in such discussion should make it clear whether or not they are the decision maker. Licensing officers will ensure their advice is impartial and is seen to be. A written note should be made of all discussions.

When attending public meetings and site visits, members should take great care to maintain their impartiality, listen to all points of view and not state a conclusive decision on any proposal or submitted licensing application. Members of the committee should not make unaccompanied "unofficial" site visits in connection with pre-submission discussions, the determination of current applications or familiarisation visits.

It is preferable that members do not take part in pre-application discussions, so as to maintain impartiality and avoid apparent bias arising. Where members do become involved in such discussions, including meetings on site, they must seek the assistance and attendance of a licensing officer. If any contact is made in the absence of officers, a written note of any discussions between the member and the applicant and/or their agent should be sent to the Strategic Manager for Regulatory and Community Safety Services so that it may be placed on the file.

### **Officer Reports to Committee or Sub Committee**

The reports will give comprehensive detail and a clear explanation of the location, the relevant licensing history, the policies and any other material considerations. Where lawful, reports will identify a range of options which the Licensing Committee or a sub-committee may choose.

## **Decisions**

A member shall not be able to vote in relation to any licensing application unless they have been present at the meeting of the Licensing Committee or its sub-committee throughout the consideration of that particular application.

All decisions should be properly recorded and the reasons for all decisions should be clear.

## **Sanctions**

Elected councillors who act in breach of this code risk being the subject of a complaint to the Monitoring Officer.

Breaches of the council procedure rules, particularly the Regulatory Committee rules, may invalidate a decision leaving that decision vulnerable to challenge on appeal, through judicial review or criticism by the Local Government and Social Care Ombudsman.

Officers who act in breach of this code of practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.



## **13. Code of Practice for Members and Officers Dealing with Planning Matters**

### **Introduction**

This code sets out guidance for all elected councillors in various roles, including as local councillor and as a member of the Planning Committee.

Planning Committee is established by the Full Council to:

- (a) Determine those issues which have a genuine Island wide significance due to their size or impact;
- (b) Raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure);
- (c) Determine applications which are made for commercial or potentially contentious purposes by elected councillors or staff member (or their spouses); or are contentious among the wider island communities.

As such, development management is among the most controversial and high profile council functions. Members need to balance their duties to individual constituents and to the community which they represent in their role as local division councillors, with the need to objectively determine development management issues in accordance with the law and locally adopted planning policies.

The principal purpose of this code is to assist officers and members in delivering unimpeachably high standards of development management decision making. It applies equally to all elected councillors, including those who are sitting on or attending the Planning Committee. It also applies to all council officers.

Officers need to be able to exercise their professional roles, which involve advising applicants, members taking decisions and also taking decisions themselves under the scheme of delegation.

### **Other Relevant Codes and Protocols**

Members' conduct is principally governed by the Member Code of Conduct (see Part 5 Section 4), as well as other local codes, such as this code of practice, breaches of which should be referred to the Monitoring Officer.

Relationships between members and officers are considered in detail in the Protocol for Member/Officer Relations (see Part 5 Section 8).

The roles of members are considered in some detail in a number of job profiles, also forming part of the Constitution (see Part 2 Section 2).

Staff who are members of the Royal Town Planning Institute must follow a code of professional conduct. Breaches of that code may be subject to disciplinary action by the institute. All officers are bound by the Employee Code of Conduct (see Part 5 Section 9).

The Constitution contains rules on acceptance of gifts and hospitality (see Part 5 Section 7). Neither councillors nor officers should ever place themselves in a position of accepting hospitality from an applicant or an objector in breach of these rules.

## **Decision Making**

The Town and Country Planning Act 1990 establishes a plan led system. Planning applications must be determined by reference to the currently adopted development plan. Each application must be decided in accordance with the plan unless there are material considerations to justify departure from it.

Members who are consistently unable to support national or local planning policies will inevitably find themselves unable to take objective decisions in relation to individual planning applications and should not participate in development management decision making.

The decision as to whether a member can continue to participate in development management decision-making is one primarily for individual members, having received advice from the Monitoring Officer. However, any member who finds themselves speaking against a particular policy on two or three occasions during a twelve month period, or five or six occasions during the lifetime of the council, might choose to regard themselves as unable to support that particular policy and withdraw from debate where it is being applied.

Where a member speaks against three or more policies during a twelve month period, or against five or six over the lifetime of a council, they similarly might find themselves unable to support national or local policies to the extent that they should not make development management decisions.

Local opposition or support for an application is not a ground for making a decision, unless that opposition or support is based on material planning considerations.

Members can only take informed, objective, decisions when they have received and carefully read all written reports and submissions. They must attend official committee site visits and carefully listen to all public speaking contributions and to all contributions to the debate from members. Therefore, any member who has not been present throughout the whole consideration of an item must not vote.

## **Reserved Matters**

The majority of applications will be dealt with by officers using delegated powers, however, the following applications and related submissions will be reserved for determination by the Planning Committee:

- (a) Applications which the Strategic Manager for Planning and Infrastructure Delivery considers:
  - (i) have a genuine Island-wide significance due to their size or impact
  - (ii) raise marginal and difficult policy issues (including inconsistency between policies or those classed and advertised as a departure); or
  - (iii) are contentious among the wider Island communities or of significant impact to a locality
- (b) Applications submitted by or on behalf of an elected councillor (or members of their close family or close associates) or by any staff (or members of their close family or close associates) employed in Planning Services or any other areas of the council where the individual may be involved in the planning process (unless the Monitoring Officer, upon receipt of a recommendation from the Strategic Manager for Planning and Infrastructure Delivery, certifies that the nature of the application – being not contrary to policy and for

domestic/recreational and not commercial purposes, or if for refusal is supported by clear and unarguable policy reason, – is such that it can be determined under delegated powers).

- (c) Applications where the proposed development is for council purposes or involves council owned land or property (except where the Monitoring Officer, upon receipt of a recommendation from the Strategic Manager for Planning and Infrastructure Delivery, is satisfied that the application is for minor works and does not need to be determined by Planning Committee). For example:
- (i) minor works to existing property and the use is not to be materially changed
  - (ii) minor applications for changes of use where there is no consequent proposal to dispose of the property
  - (iii) minor applications where there have been no objections during the consultation period; or
  - (iv) where the proposals are an amendment to an earlier scheme and do not extend beyond the previously consented extent of developed area

The Strategic Manager for Planning and Infrastructure Delivery has authority to make minor amendments to the wording on decision notices following resolution by the committee, so long as the changes do not materially affect the decision itself. For example, they may change the wording of a condition but not the need for a condition requested by members.

### **Prior Approval or Prior Notification**

Applications for Prior Approval or Prior Notification (related to permitted development rights) will not be referred to Planning Committee for determination. Such applications must be determined against set regulations and are often time sensitive, in that if they are not determined within the prescribed periods, deemed consent is granted.

**Lawful Development Certificates (LDCs)** Applications for Certificates of Lawful Use or Development (existing or proposed) will not be referred to the Planning Committee, as they are often complex determinations of matters of law and fact.

### **Delegated Decisions**

The majority of applications will be dealt with under delegated powers. This is reflective of the overall number of applications received by the Local Planning Authority, the range of application types received and the complexity of those cases, whilst also ensuring business efficiency and compliance with required regulations related to the performance of planning authorities (and criteria for designation as set out within Town and Country Planning Act 1990).

Applications are subject to formal consultation processes depending on the nature and scale of application as set out within legislation. Elected councillors may engage with the case officer for an application during the application process and are encouraged to do so to aid in the efficient determination of applications and resolution of issues.

### Major applications

For major applications (as defined by the Town and Country Planning Development Management Order 2015) the following will apply:

- (a) If, within the 21 day consultation period of the application, no letters of representation have been received that are contrary to the officer recommendation, officers may move to determine the application under delegated powers.
- (b) If, within the 21 day consultation period of the application, representations are received that are contrary to the officer recommendation, the local councillor may request a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.

Where a request is made in connection with paragraph (b) above, officers may seek to overcome the request for a “Call-In” through dialogue with the local councillor and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the member’s request. If, following dialogue, agreement is reached, officers may move to determine the application under delegated powers.

If, following dialogue, agreement cannot be reached, officers will consult with the chairman of the Planning Committee, who shall consider whether the reasons for requesting Call-In to planning committee are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee.

Where the chairman of the Planning Committee agrees with the request for Call-In the item will be reported to the Planning Committee. Where the chairman of the Planning Committee does not agree with the request for Call-In, the Strategic Manager for Planning and Infrastructure Delivery (or an authorised deputy) may issue the decision under delegated powers.

#### Non-major applications

For all other application types (except for Reserved Matters, Prior Approval or Prior Notification applications, or applications for LDCs) the following will apply:

- (a) If, within the 21 day consultation period of the application, no letters of representation have been received that are contrary to the officer recommendation, officers may move to determine the application under delegated powers.
- (b) If, within the 21 day consultation period of the application, representations are received that are contrary to the officer recommendation, the local councillor may request a determination by the Planning Committee. Such a request must be made within the 21 day consultation period, or within 7 days of the closure of the consultation period. The request must be made in writing and contain relevant and material planning considerations. If no request is made within the timescales identified, officers may move to determine the application under delegated powers.

Where a request is made in connection with paragraph (b) above, officers may seek to overcome the request for a Call-In through dialogue with the local member and provision of further advice. Examples of this are the provision of a summary of the officer recommendation, use of conditions, or provision of revised plans which may address the reasons set out in the request for Call-In. If,

following dialogue, agreement is reached, officers may move to determine the application under delegated powers.

If, following dialogue, agreement cannot be reached, officers will consult with the chairman of the Planning Committee, who shall consider whether the reasons for requesting 'call-in' to the Planning Committee are relevant and material to the consideration of the application, with particular regard to the purpose of the Planning Committee.

Where the chairman of the Planning Committee does not agree with the request for Call-In, officers may issue the decision under delegated powers. Where the chairman of the Planning Committee agrees with the request for Call-In, the item will be reported to the Planning Committee where the request is based on the planning merits of the particular matter. Where the Strategic Manager for Planning and Infrastructure Delivery (or their deputy) agrees with the request for Call-In, the item will be reported to the Planning Committee.

Where officers determine applications under delegated powers:

- (a) a record will be kept of the planning considerations taken into account
- (b) appropriate documentation relating to the delegated process described above, from the local councillor, chairman of the Planning Committee and Strategic Manager for Planning and Infrastructure Delivery (as required), will be retained following the decision being made (in accordance with the adopted document retention policy for Planning Services).

### **Declaration and Registration of Interests**

The Member Code of Conduct sets out a regime for members recording Disclosable Pecuniary Interests (see Part 5 Section 3).

In summary, the code requires (where members have a conflict of interests) that if the matter to be considered affects:

- (a) An item in the members register of interests, then a Disclosable Pecuniary Interest must be declared, the member must not take part in the consideration of the item, and they must leave the room. However, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted by the Monitoring Officer, but must leave the room after they have done so. To speak as a member of the public, members must, in addition to having obtained a dispensation, have followed the process for registering to speak as a member of the public is required to do.
- (b) If a member has a close personal interest in an item (say an application submitted by a close family member or a close associate), which is so close that it could give rise to actual or apparent impartiality, bias or pre-determination, then they should declare this interest and leave the room during its consideration. Again, members with such an interest may have the same participation rights as a member of the public if a dispensation has been granted. To speak as a member of the public members must, however, in addition to having obtained a dispensation, have followed the process for registering to speak as a member of the public is required to do.

## **Local Councillors**

Any local councillor who is not a member of the Planning Committee is entitled to attend and speak in relation to any item on the agenda with direct impact on their electoral division, so long as they have given prior notice before the start of the meeting to Democratic Services of their wish to do so.

Where a local councillor has requested the item be considered by the Planning Committee and that item is reported to the Planning Committee, it is anticipated that the local councillor will attend the meeting or make alternative arrangements for their representation at the meeting by an adjoining division councillor, political group leader or by provision of a short written statement, which may be read by the chairman. A local councillor can speak for six minutes at the end of public speaking unless the chairman agrees otherwise.

Members of the Planning Committee who are determining applications that are within their electoral division should, by local convention, declare the fact and nature of the impact on their electoral division as a personal interest and may speak but will not vote on the issue. This convention is encouraged in order to protect the Planning Committee from the perception that decisions are being taken on the basis of local opposition or support rather than material planning considerations. It also protects against the perception that those areas that are represented by a local councillor who sits on Planning Committee have a disproportionate influence on the planning processes.

## **Other Members**

The chairman of the Planning Committee has the discretion to invite members of the council who are not members of the Planning Committee, nor the councillor within whose electoral division the proposed development is located, to address the Planning Committee. The chairman will usually allow a councillor in this position to speak in relation to any issue where that councillor has a contribution to make which relates to material planning considerations, where it has not been practicable for the contribution to be made in writing via officers of the planning service and no other member of the Planning Committee can, or will, make the contribution which the non-local councillor wishes to make.

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once any public or local councillor speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.

## **Cabinet Member for Planning and Enforcement**

The Cabinet member with responsibility for Planning and Enforcement will not be appointed to the Planning Committee. That Cabinet member is nevertheless entitled to attend the committee and speak on any item which raises particular planning policy issues.

Sometimes the Cabinet member may, as local councillor, wish to speak on an issue that also interests them as Cabinet member. In order to be able to do this, they must make it clear if they are speaking as a Cabinet member or as the division councillor.

## **Lobbying of and by Members**

Development management decisions must be taken objectively on the basis of relevant information.

Where the Planning Committee is taking the decision all, and only, relevant information must be presented either in writing or orally to the committee meeting.

It is perfectly proper for elected councillors to give applicants and objector's factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular, members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.

Whilst it will usually be preferable for members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens, they should use a form of words that confirms that whilst they may have a pre-disposition towards a particular outcome, they have not made a pre-determination on the subject, such as *"on the basis of the information I have at the moment I am likely to oppose/support the application but I will consider all the information available before I make my decision"*. Any member who makes a stronger statement, such as *"this application will be passed over my dead body"* will not be able to take part in the committee decision.

Councillors may be lobbied by individuals, groups or other interested parties in a matter and this is to be expected. However, if any councillor considers that they are receiving unduly intense or inappropriate lobbying, then they can discuss this with the Strategic Manager for Planning and Infrastructure Delivery for further advice.

Members should be particularly careful not to exert pressure on an officer who has to make a recommendation to the Planning Committee. If any officer believes that pressure is being exerted upon them, they will immediately notify the Strategic Manager for Planning and Infrastructure Delivery and/or the Monitoring Officer. In the event that the Strategic Manager for Planning and Infrastructure Delivery believes that pressure is being exerted upon their role, they should immediately notify the Director and/or the Monitoring Officer.

Officers will take many planning decisions under delegated powers. It is similarly unacceptable for those officers to be lobbied by members or be subjected to undue pressure.

## **Bias/Apparent Bias**

Any councillor who is, or appears, biased towards an issue can leave the decision vulnerable to challenge in the courts. The courts will undertake a detailed investigation of a member's conduct over a period rather than look just at the circumstances relating to that decision. It is therefore extremely important that councillors are aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality at all material times.

The test for bias applied by the courts in terms of a particular member who participates in the decision-making itself is as follows:

*"Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular member being a member of the relevant decision making body."*

In recent years the courts have been more willing to find that there has been an appearance of bias:

*“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues.”*

The court will look at the facts in each case. If a member has simply given a view on an issue, this will not amount to pre-determination so as to render the decision vulnerable to legal challenge, as this alone does not show that the member has a closed mind on that issue. Simply due to a member making a public statement about their approach to a planning application does not mean that the member cannot participate in the determination of the application. However, members must be careful to articulate how they phrase statements. Expressing a view may not disqualify a member on the basis of bias or the Member Code of Conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the member had an open-mind will be of little value – they do not relate to the all-important impression portrayed.

Once bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the court to exercise its discretion not to do so. It is no answer to suggest that only one member was “guilty” and therefore the decision should stand.

In light of the above and the issues this raises, the following further guidance is given:

- (a) Planning Committee members attending public meetings should avoid expressing opinions on any current or live planning application nor participate in any debate. They must adhere to only stating facts or declaring that they are taking a position to listen to other views.
- (b) Planning Committee members or local councillors who wish to take part in the debate on pending/forthcoming applications (pre-application discussions), should have regard to this code and may take the view that they should not attend or participate in any discussions or public meetings if they wish to take part in the debate and vote on an application.
- (c) Councillors who are not members of the Planning Committee do not need to avoid discussions or meetings, but must at all times have regard to the Member Code of Conduct.

## **Town and Parish Councils**

The danger of prejudging an issue arises not just at public meetings but also in parish and town council debates. Taking part in a parish or town council debate does not prevent members from taking decisions at the Planning Committee or other members from participating in the debate. However, parish and town councils do not have the advantage of planning advice nor complete information on any application. Contributions by elected councillors at parish or town councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.

When a councillor has participated in a public debate, at a parish/town council or elsewhere, they should declare this when they speak at the Planning Committee and should make a clear statement that they have not prejudged the issue.



## **Whipping**

The use of party political whips in development management decisions would demonstrate a predetermined position and could also be maladministration. Whipping must not therefore take place.

Individual members should reach their own conclusions on planning matters rather than follow the lead of another member. However, the views of other members of the committee, where they are relevant, can be one of the factors taken into account in taking a decision.

## **Pre-Application Discussions**

The opportunity for developers to discuss development proposals with planning officers in advance of the submission of applications is recognised best practice. It provides potential developers with detailed guidance on planning policies and other material considerations relevant to proposals. It is preferable that members do not take part in pre-application discussions in order to maintain impartiality. In certain circumstances, members may be invited by officers to become involved in such meetings. In no circumstances should members become involved in pre-application meetings without the assistance and attendance of a planning officer.

High standards of probity are rightfully expected of members when discharging their planning responsibilities, and members should note in particular that:

- (a) at all times they should maintain the highest standards of probity in their engagement with applicants
- (b) they may have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods
- (c) Planning Committee members can comment on the details of schemes provided they are clear that they will listen to all material considerations presented at committee before deciding how to vote
- (d) involving members early and throughout the application and determination process leads to better planning decisions and better developments

Notes of all pre-application meetings will be taken and agreed with the parties attending the meeting. Where appropriate, notes of pre-application meetings will be included on subsequent application files.

At the discretion of the Strategic Manager for Planning and Infrastructure Delivery, developers proposing the submission of major planning applications may be offered an opportunity to present the outlines of their proposal to members of the Planning Committee prior to formal submission. In such circumstances, members should recognise that the presentation is for information only, and that the decision making process should not commence until such time as any ensuing application is subsequently made.

## **Development Proposals Submitted by Members and Officers, and for Council Development**

All Planning Services officers or other officers involved in the planning process must declare to their head of service any interest that they may have in any third party application (e.g. an application submitted in their immediate neighbourhood or by a society or club of which they are a member) and take no part in the determination of that application.

Where a planning application is made by a Planning Services officer or any other officer involved in the planning process (including their wife/husband or civil partner), that officer shall play no part in the decision making process. Similarly to members, the officers shall not take any part in the committee process if their application is referred to committee and should, if they are present withdraw from the chamber or public gallery.

At the meeting of the Planning Committee to which an application submitted by a member of the Isle of Wight Council is reported, that member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the committee as part of the public speaking scheme (in accordance with this code) will be available subject to a dispensation having been granted (see Part 5 Section 4 paragraph 8 and Part 5 Section 6).

All members of the council who may be considering the submission of an application are strongly advised to employ the services of an agent to avoid partiality, to ensure proper contact with officers during its processing and to address the committee as appropriate.

### **Training**

The importance of informed objective decision making in relation to development management issues is so important that this council has a policy of training all members taking development management decisions before they start to do so.

Training relating to development management (including this code) and the Member Code of Conduct will be provided as a minimum for all councillors. Periodic additional and refresher/updating training will also be delivered. Training will be undertaken by the Strategic Manager for Planning and Infrastructure Delivery, planning officers, other officers of the council or external trainers, as appropriate. It is extremely important that elected councillors participate in this training. Any councillor who believes they are not sufficiently trained should not participate in development management decisions.

### **Reports to Planning Committee**

All reports will:

- (a) describe the location and nature of the site
- (b) summarise the relevant planning history
- (c) identify relevant planning policies
- (d) evaluate the main material considerations of the application
- (e) set out the representations received on the proposal
- (f) summarise any human rights issues relevant to the specific proposal
- (g) set out a clear recommendation. In the case of a recommendation to approve, appropriate conditions will be set out together with reasons why it satisfies policy. In the case of a recommendation to refuse, detailed reasons for refusal will be set out.

### **Briefing**

In the period between the publication of the committee agenda and the holding of the meeting, a briefing will be held for the chairman and vice chairman of Planning Committee and the Cabinet member for planning. The briefing will be organised by the Strategic Manager for Planning and Infrastructure Delivery and appropriate planning officers. An appropriate Legal officer will also be in attendance, together with the committee administrator. The purpose of the briefing is to:

- (a) advise members of the key points on each planning application
- (b) advise members of the extent of public speaking at the committee meeting
- (c) discuss administrative issues in relation to the detailed organisation of the meeting

The briefing should not be used by members attending as an opportunity to exert pressure on officers to pursue a particular course of action or outcome.

### **Conduct at Meetings**

It is important that public confidence in development management is maintained. The conduct of members at meetings is extremely important. The following arrangements should be followed unless the prior agreement of the chairman is obtained:

- (a) committee members will sit in a designated seat marked with their name plate
- (b) a seating plan will be available for members of the public
- (c) members will speak clearly and concisely using microphones so the public and other members can hear what is said
- (d) the chairman will introduce speakers by family name
- (e) mobile phones will be switched off or on silent
- (f) eating and drinking, other than water, is not permitted
- (g) occasional breaks will be taken during long meetings
- (h) only exceptionally will the chairman allow members to speak for more than five minutes

### **Public Speaking**

In order to ensure that committee members have access to a full and appropriate understanding of the often divergent comments on a planning application, the council operates a scheme of public speaking at Planning Committee.

Full details of the public speaking scheme are set out in "Your Chance to Speak - Public Speaking at Planning Committee", available in leaflet form from the Strategic Manager for Planning and Infrastructure. In summary, unless the chairman agrees otherwise for reasons of natural justice, fairness or for other reasons to enable the proper determination of an application, the key elements of this scheme are as follows:

- (a) public speaking is permitted on all planning applications considered by the Planning Committee
- (b) three groups of speakers are permitted on any application:
  - (i) the applicant/agent/supporters
  - (ii) objectors
  - (iii) parish/town councils
- (c) Each of these groups will have up to six minutes to present its case. A maximum of three people can speak for each group, with the time divided equally between them.
- (d) Public speaking on any application is only permitted on the first occasion the application is considered by the Planning Committee.

Members of the Planning Committee should give appropriate weight to the representations made by the public in their determination of planning applications. Comments made by speakers exercising their right to address the committee will, in most cases, highlight comments already summarised in the officer report on the application. In some cases, other issues will be raised which will not already be covered in the report. In assessing comments made during public

speaking, members must only give weight to issues which are material planning considerations. Where appropriate and/or necessary, the chairman of the committee will request officers to comment on items raised by the public, and whether or not they are material to the determination of the application in particular.

### **Site Inspections**

The need for site inspections (which, if required, will take place prior to the committee meeting) will be determined by the Strategic Manager for Planning and Infrastructure Delivery or authorised officers in consultation with the committee chairman. In deciding whether it is appropriate to hold a site inspection, consideration will be given to any state of national emergency (e.g. Covid-19) as to whether the council may have to suspend this provision.

Members of Planning Committee must attend official site visits in order to participate in the debate and vote. If members are unable to make a decision on an application without the benefit of having visited the site, or a further site visit, they may vote for a site visit where the motion identifies the potential material planning benefit of attending site (again).

### **Cooling Off Period**

If within five working days of the Planning Committee at which the application was heard, the Strategic Manager for Planning and Infrastructure Delivery is of the opinion that a decision has been made contrary to policy and could not be sustained under challenge, they may choose to invoke the "cooling off" procedure. The effect of this action is that a decision notice will not be issued on the application. The Strategic Manager for Planning and Infrastructure Delivery will notify the members of the Planning Committee that this cooling off procedure has been invoked within five working days of making this decision and outline reasons will be given for invoking the cooling off period. A report will be brought back to the Planning Committee once the Strategic Manager for Planning and Infrastructure Delivery has finalised the report and the Monitoring Officer has been consulted. The report will analyse the sustainability of the decision, impact upon the Local Planning Authority and the possibility of precedent.

### **Minutes/Recording Decisions**

Decisions by Planning Committee will be clearly minuted. Where a decision against officers' recommendation is made, clear and sustainable reasons must be set out by the committee. Members who are considering determining an application contrary to officer recommendation are strongly recommended to seek professional advice from Strategic Manager for Planning and Infrastructure Delivery and/or the case officer before raising the matter at the committee. In any event, all decisions made at the committee contrary to officer recommendation will be subject to a named vote.

It is not possible to revisit decisions after the issue of the decision and the chairman of Planning Committee and those advising and assisting them must be confident that sufficient and comprehensively recorded reasons for the decision have been set out before the next agenda item is taken.

### **Review and Monitoring**

Annually, the Planning Committee may review a sample of development management decisions in order to assess their impact. As part of this process, a visit will be organised by the Strategic

Manager for Planning and Infrastructure Delivery in consultation with the chairman of Planning Committee to a sample of sites where developments have recently been completed.

Every six months, or to a timescale to be agreed between the Strategic Manager for Planning and Infrastructure Delivery in consultation with the chairman of Planning Committee, the Monitoring Officer and/or Strategic Manager for Planning and Infrastructure Delivery will report to the Planning Committee an analysis of:

- (a) all decisions which depart from policy
- (b) all decisions which are against officers' recommendation
- (c) site visits

## **Sanctions**

Elected councillors who act in breach of this code risk being the subject of a complaint about a breach of this code to the Monitoring Officer.

Breaches of the council procedure rules, particularly the planning committee rules, may invalidate a planning decision leaving that decision vulnerable to challenge on appeal, through judicial review or criticism by the ombudsman.

Officers who act in breach of this code of practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

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## **14. Protocol for Planning Committee Site Inspections**

### **Background**

This protocol establishes procedures for the organisation of Planning Committee site inspections that take place prior to the committee meeting.

### **General Principles**

A site inspection plays an invaluable role in the determination of more complex or controversial planning applications. Site inspections allow committee members to better understand the context and content of the previously published committee report. They also provide members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised by officers, the applicant or objectors.

Committee members should under no circumstances make decisions on applications during the site inspection.

Members should debate the proposal at the committee meeting and take into account both the appropriate policies in the adopted plan and all other material planning considerations (both those identified on site and others that may not have been considered on the site inspection).

Planning officers will arrange the itinerary and make the appropriate arrangements for the committee members to gain access to sites or to address the committee before, during or after the inspection. A planning officer will also attend all site inspections.

The site inspection is not open to the general public for reasons of probity, possible health and safety issues, as well as entry onto private land or premises.

### **Procedures at Site Inspections**

The Planning Committee site inspection provides an opportunity for committee members (including, where appropriate, the local councillor) to be briefed by planning officers on or around the application site. Neither members of the public (including supporters/objectors/ parish members) nor the applicant or the applicant's agents are permitted to participate in the site inspection.

Committee members (including where appropriate the local councillor) will:

- (a) not debate the planning application with either members of the public or the applicant during the site inspection
- (b) not debate the planning application with either members of the public or the applicant in the period between the termination of the site inspection and the commencement of the Planning Committee meeting
- (c) receive a group presentation from an appropriate planning officer at the outset of the site inspection
- (d) be shown, key elements of both the site and its wider environment (as appropriate) by an appropriate planning officer. Should committee members wish to visit additional parts of the site or the wider environment than those the officer has drawn their attention to, they should advise the planning officer before the committee leaves the site and the officer will, where there are no reasons for not visiting, ensure that these locations are inspected
- (e) ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation

(f) remain as a single group throughout the full course of the site inspection



## **15. Code of Practice for Members and Officers Dealing with Property Transactions**

### **The Need for Guidance**

The sale and acquisition of property by the council will invariably have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

### **The Plan of Proposed Disposals**

The relevant Director will produce each year a plan setting out proposed disposals of property, freehold or on long leases, which are likely to reach completion within the next 12 months, and also an indication of planned disposals in subsequent years. The programme of proposed disposals will be updated in the year.

The plan of proposed disposals will appear on the Forward Plan as part of the process of setting the capital programme and be sent to the chairman of Corporate Scrutiny Committee so that Corporate Scrutiny Committee has the opportunity to consider the contents of the plan.

The plan of proposed disposals will show:

- (a) the objectives of each transaction, e.g. maximising capital receipt; delivering policy objective; etc
- (b) the proposed method of disposal, e.g. open market, restricted tender, etc
- (c) the proposed decision-maker, e.g. officer delegation or Cabinet
- (d) whether the disposal is of redundant property or to achieve some other identified policy objective

### **Member Decision-Making**

Member decision-making should concentrate on setting the objectives, parameters and mechanisms for proposed transactions; and members, where their involvement adds value to the process, should be involved as early as possible. Reports to members will, therefore, set out:

- (a) the proposed objectives of the transaction (including alternative objectives)
- (b) the proposed method of pursuing the transaction
- (c) the circumstances in which a further report to members is necessary
- (d) proposed consultation with local members, the local community and other stakeholders (exceptionally the report will be sufficiently late in the process to set out the outcome of consultation already undertaken)
- (e) arrangements to secure the long term objectives of the sale

Where a disposal also declares property redundant or is to achieve a policy objective that is the responsibility of another Cabinet member, then any report to members will be to the Cabinet, jointly in the name of those two Cabinet members (in the case of decisions by the Cabinet).

### **Confidentiality**

There is a presumption that both the plan of proposed disposals and reports to members will be taken in public. The exception is when, and for so long as, information contained within them would either:

- (a) prejudice the local authority or

- (b) would give an advantage to any person seeking to enter into a contract with the local authority or
- (c) would disclose information about the financial or business affairs of a person other than the local authority

The reasons for confidentiality, where these exceptions apply, will be recorded on the face of the report.

### **Urgency**

Where, in the opinion of the Cabinet member, it is not reasonably practicable to delay a decision on a property transaction until the transaction has appeared in a plan, other means of informing the Corporate Scrutiny Committee in advance of the decision, wherever possible, will be followed.

Where it is not possible to involve the Corporate Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Corporate Scrutiny Committee as soon as is reasonably practicable. The Corporate Scrutiny Committee will, by these means, be able to hold the Cabinet member to account for their judgment in relation to urgency.

### **Interests**

The elements of the Member Code of Conduct in relation to declarations of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) should consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a disclosable pecuniary, or close personal, interest. Advice on this is available from the Monitoring Officer.

### **Local Councillor**

The elected councillor for the division where the property is located will be informed of the proposed transaction (except where genuine urgency prevents) firstly when the plan of disposals is put to the Corporate Scrutiny Committee and again, prior to any public marketing.

### **Town and Parish Councils**

A copy of the annual plan of proposed disposals will be sent to all town and parish councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

### **Acquisitions**

This code supplements existing arrangements to plan and report proposed acquisitions through the capital programme.

Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the Corporate Scrutiny Committee will be given the opportunity to consider the proposal, or if genuine urgency prohibits this, to subsequently consider the acquisition.

## **16. Consultation Protocol Between Isle of Wight Town and Parish Councils and Isle of Wight Council**

The aim of this consultation protocol is to improve the joint working relationship between the Isle of Wight Council (IWC) and town and parish councils (local councils). Island electors expect local government to work together for the benefit of local communities. There is a common desire to foster a better professional working relationship between IWC and local councils. Better knowledge and understanding of each other's roles and responsibilities, together with a willingness to work together, will help to build trust and mutual respect.

This protocol will be reviewed by IWC in collaboration with the Isle of Wight Association of Local Councils (IWALC), the Hampshire Association of Local Councils (HALC), the Society of Local Council Clerks, and Island Town and Parish Councils. The aim is to make decisions on services that are more responsive to the needs of local communities, providing best value and quality.

Local councils need coordinated, considered consultations from IWC which are focused and relevant. This must be balanced with the legal duties that require IWC to consult on proposals at a formative stage, in a meaningful and balanced way and in some instances within a statutory timescale. Effective and meaningful consultation is essential in facilitating a good relationship between IWC and local councils.

### **Role of the Isle of Wight Council**

IWC will endeavour to:

- (a) Ensure that communication and liaison with local councils is effective, meaningful and timely.
- (b) Promote good communications between IWC councillors and local councils in their electoral divisions.
- (c) Recognise IWALC as the collective voice of its member councils.
- (d) Where it is cost effective members take account of the diversity of local councils in information and consultation provision and ensure the timely distribution of communication materials.
- (e) Engage local councils at a sufficiently early stage so they can help shape strategic partnership thinking.
- (f) Ensure that any local councils likely to be affected by any proposals or amendments of services or functions are informed in advance of any decision being made (it is recognised that there will always be cases of urgency or other reason, e.g. statutory requirements, that may mean that this is not possible; where it is not, local councils shall be informed as soon as practicable).
- (g) Provide a period of consultation of not less than six weeks for planned consultation on changes to services (excluding any statutory consultation process, e.g. on planning applications), avoiding the month of August where possible; if this is not possible, then a longer period may be provided. However, this period may be reduced by reasons of urgency and/or where statute sets a shorter period. This consultation will provide sufficient information (usually in an electronic format) for the relevant local council to respond properly.
- (h) Provide information electronically, where appropriate.
- (i) Contact local councils through their clerk or other nominated representative.

- (j) Where practicable, consult local councils again if, following consultation, IWC changes substantially the substance of a proposal.
- (k) Where resources and time allow, meet with local councils to discuss or clarify information regarding a consultation, to enable local councils to give an appropriate informed response. This may be done by attending an IWALC meeting rather than attending each parish/town council meeting.
- (l) Ensure that consultation outcomes are fully considered.
- (m) Explore possible parish/cluster/county liaison functions, linked to broader community engagement.
- (n) Where policies and proposals affect several local councils, also consult with IWALC as a means of securing the collective views of its member councils. Equally, if several local councils believe that they are affected, then they may also ask IWALC to consider the matter.

Information regarding meetings of the IWC Cabinet and committees, together with agendas, minutes and supporting documentation, will be available on IWC's website.

### **Role of Island Local Councils**

Local councils will endeavour to:

- (a) Provide IWC with accurate and current details of the names, addresses, emails and contact numbers of their clerks and to provide this information in a timely manner on their websites (if they have one).
- (b) Support and develop good communication and liaison with IWC through the appropriate Cabinet member, local IWC members and officers.
- (c) Maintain ongoing active engagement with local communities, reflecting their diversity, including relevant local business, voluntary and community sector organisations which might be affected by the subject of the consultation.
- (d) Ensure that parish and town councils' comments in response to a consultation exercise are meaningful and constructive.
- (e) Ensure communications to IWC are sent electronically and to the appropriate officer identified as part of the consultation process.
- (f) Respond to consultations within the stated time limit.
- (g) Ensure that if a local council does not wish to respond to a consultation it will inform IWC to that effect within the stated time limit.
- (h) Ensure that if they are unable to respond within the time limit, they request a short extension from the designated IWC officer as soon as possible; in any event, before the time limit has expired (it may not always be possible to grant such an extension in time). If the reason they are unable to respond is that there is no scheduled meeting, consideration be given to the local council submitting a draft response pending final consideration by them.
- (i) Recognise the role of IWALC as the agreed mechanism for engagement between IWC and member local councils.

Where appropriate, IWALC will co-ordinate the consultation activity for local councils.

Any issues arising from the operation of this protocol will be raised in the first instance with IWC's Monitoring Officer, who will attempt to resolve the matter and/or discuss the issue with the Cabinet member responsible for parish liaison. Such issues will be acknowledged by IWC within 20 working days.

## **Planning Applications**

IWC will send to all local council clerks the weekly planning application press list (via email) together with a copy of all planning applications and plans within the individual local council's area.

The agreed consultation period is 21 days from the date of notification. Where a local council comments on an application outside the consultation period, such comments will be taken into account, if reasonably practicable.

All applications and plans are sent to local councils before there has been any evaluation by the planning officers. This is because any comments received from the local council forms part of the evaluation and will help determine if the application can be decided within the delegated powers of the officers. Therefore, it is important that local councils observe the 21 day deadline or notify the relevant officer if they require more time. Failure to follow this procedure may mean that the application is determined without the benefit of the comments of the local council.

Where a local council comments on an application and they are contrary to the views of the case officer, this is drawn to the attention of the IWC local councillor, who can request that the application be considered by the Planning Committee. Such requests must be supported by relevant material considerations.

Local councils will be emailed a weekly list of decisions made. Copies of the decision notices, along with officer justifications or copies of the reports going to the Planning Committee, will be available on the IWC website.

Policy documents are available on the IWC website. Standard conditions and reasons for refusal books will be made available to local councils upon request to assist in their formulation of comments.

Planning histories are available on the IWC website.

Planning officers' reports cannot be made available within the 21 day timescale for comments has expired; they are unlikely to be prepared by the case officer until the views of consultees are received.

IWC will keep a copy of all local councils' comments received on planning applications in accordance with the IWC document retention policy.

IWC officers will be available to assist local councils in assessing technical details of major application proposals.

IWC will endeavour to consult with a local council where there is a significant change of condition to a planning consent to be made after consent has been granted.

## **Other matters**

IWC will endeavor to consult local councils on any proposals for any changes to any facilities, services or regulatory functions it operates or is responsible for (not specifically mentioned above), which will affect a local council or all or any of the inhabitants of its area.

IWC will endeavor to consult with local councils via IWALC on all major economic issues as and when the occasion arises.

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## 17. Communications Protocol

This protocol covers the legal framework, the role of the Communications Team, principles of effective communication, council spokespeople, clearing and dissemination of press releases, handling media enquiries and interviews, corporate identity and council publications. It also deals with publicising the work of Full Council, the Cabinet, and the Corporate Scrutiny Committee and any committees or sub-committees thereof.

The council's Cabinet is the guardian of the protocol. It is reviewed regularly to ensure it is up to date.

### Introduction

The purpose of this protocol is to explain the council's processes, quality standards and principles in relation to communications activity. It offers guidance and a clear set of rules which both officers and members are required to uphold.

It is not the council's Communications Strategy, which is agreed each year and forms the Communications Team workplan. In delivering the Communications Strategy, the council will uphold this protocol.

### The legal framework

Local authorities are required by section 4(1) of the Local Government Act (LGA) 1986 (as amended by the LGA 1988) to have regard to the [Code of Recommended Practice on Local Authority Publicity](#) in coming to any decision on publicity.

The code recognises that local authorities are accountable to the electorate and local accountability requires local understanding. Local authorities also need to tell the public about the services which they provide. The code encourages effective publicity aimed at improved public awareness of the council's activities. However, publicity is a sensitive matter in any political environment because of the impact it can have. It is essential to ensure that proper decisions are made on publicity in accordance with clear principles of good practice. The purpose of the code is to set out those principles.

### The Communications Team

- Raise awareness and improve understanding of council services through communications that are timely, accurate, clear and accessible.
- Aspire to deliver the highest standards of council communications, implementing existing best practice from other authorities.
- Serve the council and offer support and advice to officers and members.
- Observe all relevant legislation and comply with the Code of Recommended Practice on Local Authority Publicity.
- Proactively develop relationships with Island organisations, broadcast, print and specialist media and others to maximise PR opportunities for the council.
- Use proactive communications to protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- Use internal communications to engage staff and explain the challenges faced in changing the organisation.
- Design communication campaigns that change public perceptions and increase take up of services.

## **Principles of effective communication**

- **PRIORITY:** Effective communications in terms of informing, listening and explaining to stakeholder groups is regarded as a priority by the authority.
- **STRATEGY:** Proactive communications to promote the Island, protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- **THE MESSAGE:** We are proud of this authority because it delivers good value local services that are raising standards and creating opportunity on the Isle of Wight.
- **OPERATIONS:** The corporate communications team is responsible for the operational delivery of the media relations, publications, web content and core internal communications of the council.
- **POSITIVE RELATIONSHIPS:** We will develop positive relationships with Island organisations, media and others to maximise promotional opportunities for the council. We will vigorously defend the reputation of the council and rebut inaccurate reporting of the council's activities and plans.
- **PLANNING:** The communications team will produce an annual communications work plan based around delivering corporate activities and delivering a series of campaigns that support service objectives. We will schedule activity through the communications grid to forecast likely demands on time and significant news events. Members and officers must feed news events into the communications team on a weekly basis.
- **ONE VOICE:** Staff and councillors recognise their leading role in terms of actions and behaviours in building the reputation of the authority. They should act, and communicate consistently, taking responsibility and explaining the reasons for decisions. The credibility of the media team rests on the fact that it is the authoritative and accurate voice of the council. All media requests are channeled through communications and any direct approaches from journalists should be reported back to the team.
- **PATIENCE AND PERSISTENCE:** Building reputation and strong brand values will take a significant amount of time. It will require discipline, patience and time. Councillors and staff members will have to use every media opportunity, marketing tools, internal communications and action following consultation to convince the public that the Isle of Wight is providing good value local services.

## **Spokespersons and media comment**

The usual divide between staff and councillor comment is based on whether the story contains 'policy' matters (councillor comment) or 'operational' issues (officers' response). In practice the dividing lines can be blurred and so the media team will gauge what sort of spokesperson will be required to respond to a story – authoritative or compassionate, staff member or councillor.

The council's key spokespersons are the Executive Leader, the Deputy Leader and Cabinet members within their portfolios. They will be featured in any publicity where it relates to their responsibility on the council.

The Chief Executive, chief officers and senior managers (as agreed by the media team) will also act as spokespersons on their areas of expertise, ensuring any comment is based on factual information in line with council policy.

Council officers will not discuss council business with the press without the prior permission of the Communications Team. This includes speaking, emailing, writing or giving interviews. All press enquiries should be referred to the media team.



No officer should publicise confidential information gained in the course of their work, maliciously undermine the council by adverse or negative comments, take personal issues concerning their employment to the media, or bring the council into disrepute by their actions or views expressed.

No councillor should discuss or disclose confidential or exempt information to the media, impugn the professional integrity of officers, make personal attacks or undermine respect for officers or bring the council into disrepute as a corporate body in any public forum, but this is not intended to inhibit proper political scrutiny of the administration.

The credibility of the Communications Team rests on the fact that it is the authoritative and accurate voice of the council. It is essential that all media requests are channeled through communications and that any direct approaches from journalists be reported back to the team to deal with.

### **Drafting and clearing press releases**

There is a difference between a press release and a story. A press release is a vehicle used for transferring information from a press office to a journalist. It is not the subsequent story that will appear in the media. It is crucially important to remember this when drafting or approving press releases. They are just adverts for a particular story. What will get them covered is the ability to deploy supporting arguments in terms of expert witnesses, new evidence, interesting figures or punchy comments.

In most cases it is expected that clearance for media comment and press releases will occur by the end of the day when comment or clearance is requested, with a target clearance time of four hours.

If clearance is not forthcoming from the Cabinet member or chief officer, the communications team will contact the next person in the chain of command to ensure deadlines can be met.

### **Full Council, Cabinet and other decision-making bodies**

A media officer will be assigned to cover the activities of all key decision making bodies to ensure the decisions that are taken are clearly communicated to the relevant target audiences.

Where appropriate, press releases will be issued with agendas highlighting key items as agreed with the Leader, portfolio holder or Chief Executive. Quotes may be included from the Leader, appropriate portfolio holder or chairman to explain and publicise council policies and services.

Motions and questions from individual councillors shown on any agenda will not be publicised through the Communications Team.

If appropriate a press release will be issued following the meeting, describing a decision and quoting the leader, portfolio holder or chairman.

All communication relating to the work of any decision making body must be agreed by the Communications Team. Any comment made by the chairman in relation to the work of their committee must come through the Communications Team.

The Communications Team manager will decide on requests for press releases from decision-making body chairmen. In the event of a dispute, the final decision will be taken by the relevant chief officer.

### **Corporate Scrutiny Committee**

A media officer will be assigned to cover the activities of the Corporate Scrutiny Committee to ensure the work of this body is effectively communicated.

Where appropriate, press releases will be issued with agendas highlighting key items as agreed with the chairman of the Corporate Scrutiny Committee. Quotes may be included from the chairman of the Corporate Scrutiny Committee to explain and publicise the work of committee.

Appropriate senior officers will be consulted on the preparation of press releases.

All communication relating to the work of the Corporate Scrutiny Committee must be agreed by the council's Communications Team. Any comment made by the chairman of the Corporate Scrutiny Committee in relation to the work of their committee must come through the Communications Team.

The Communications Team manager will decide on requests for press releases from the Corporate Scrutiny Committee. In the event of a dispute, the final decision will be taken by the Chief Executive.

### **Individual councillors**

Press releases will not be issued by the Communications Team on behalf of individual councillors.

Individual councillors should make their own group leaders aware of any media activity they are undertaking and should keep the Communications Team informed in case of enquiries.

The Communications Team will not promote the views of individual councillors.

## **PART 6 – MEMBERS’ ALLOWANCES SCHEME**

This Member’ Allowances Scheme has been established under the Local Authorities (Members’ Allowances) ) (England) Regulations 2003 (and any amendments to those regulations).

1. This scheme may be cited as the Isle of Wight Council Members' Allowances Scheme.

2. In this scheme,

"councillor" means a member of the Isle of Wight Council who is a councillor;

“co-opted member” means a Co-opted or Independent Member of the Scrutiny Committee and Designated Independent Persons;

"year" means the 12 months ending with 31 March.

### **Basic Allowance**

Subject to paragraph (6), for each year a basic allowance shall be paid to each councillor. The amount of the allowance will be reviewed in accordance with paragraph (8). For the year 2022/23 the allowance is **£8,832.00**.

### **Special Responsibility Allowances**

- (a) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme.
- (b) Subject to paragraph (6), the amount of each such allowance for 2022/23 shall be the amount specified against that special responsibility in that schedule. The allowances will be reviewed in accordance with paragraph (8).

### **Renunciation**

A councillor or co-opted member may by notice in writing given to the Chief Financial Officer elect to forego any part of his entitlement to an allowance under this scheme.

### **Member Allowance Uplift**

The Basic Allowance will be uplifted each year for a maximum period of four years in line with the annual percentage increase agreed for the majority of Isle of Wight Council employees to whom the NJC terms and conditions apply and this will be applied once the pay settlement rate is known and will apply from April in each year provided that the Panel has been consulted on this increase before it is applied in case the Panel wishes to review it.

### **Part-Year Entitlements**

- (a) In the case of Basic Allowances, SRA’s, or Dependent Carers’ Allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable. This provision applies where a Member becomes, or ceases to be a Member, or becomes or ceases to hold a role to which a SRA is applicable.

- (b) Where, in the course of a year, this scheme is amended any change in an allowance will be effective from the date the scheme is approved by Full Council.

### **Payment of Allowances**

- (a) Payments shall be made
- (i) in respect of any allowances, subject to sub-paragraph (b), in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;
  - (ii) in respect of claims for travelling, for Council business off the Isle of Wight, on the last working day of each month in respect of claims received up to the day 14 days before that date. Claims shall be made on the prescribed forms obtainable from the corporate leadership support team. The maximum amounts reimbursable are set out in paragraph 12 below. The duties for which these claims are approved are all off Island activity connected with Council business. All such claims must be supported by evidence of expenditure for every item in the claim.
- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of any allowance would result in the councillor or co-opted member receiving more than the amount to which, by virtue of paragraph (6), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

### **Review**

The Independent Remuneration Panel will review the Scheme in mid or late 2022 unless there are changes to the governance structure that require review at an earlier date and following on from Local Authority elections or the Independent Remuneration Panel otherwise wishes to review earlier such as, for example, any adjustment in the level of the basic allowance in reliance of the indexation provision before implementation.

Motor Mileage Allowances and Subsistence Rates (for off Island business) are reviewed by the Secretary of State, normally on an annual basis.

### **Dependent Carer's Allowance**

Where a councillor or co-opted member has either:

- a dependant child living with them under the age of 14, or
- cares for a dependant elderly or disabled person

The following are claimable:

For child care: the actual expenditure incurred up to a maximum of £6.19 per hour. This is the rate paid by the Local Government Association (LGA), which reviews its rates annually and therefore the amount quoted is subject to change.

For dependents who are elderly or disabled: the actual expenditure up to a maximum of £12.50 per hour, which is the rate paid by the Isle of Wight Council Adult Services

Department under their Direct Payment Scheme. Adult Services review their rates annually and therefore the amount quoted is subject to change.

### **Travel and Subsistence Allowances – on the Island**

Councillors are provided with an additional sum added to their basic and special responsibility allowance that is payable instead of any claims for travel or subsistence for on Island activity. No other payments can be made for on island travel or subsistence.

This “Expenses Sum” is calculated as follows:

Factor A – distance from Members home to County Hall – 3 bands: Band 1 – less than 3 miles, Band 2 – between 3 and 8 miles, and Band 3 – more than 8 miles.

Factor B – type of office held – 4 bands: Band 1 – frontline member (without an SRA); Band 2 – Leader of group with 10 or more members, Vice Chairman of the Council, Vice Chairman of Planning Committee, ; Vice Chairman of Scrutiny, Chairman of Appeals Committee; Licensing Chairman, Pension Fund Chairman, Band 3 – Chairman of Council, Chairman of Planning, Audit, Scrutiny Committee, Policy and Scrutiny Committees; Band 4 – Leader, Deputy Leader, Cabinet Member.

The two factors are added together to give a “Factor” for each member. All the factors are added together and this is then divided by £21,224. This is the “Amount Factor”. The “Factor” and “Amount Factor” are multiplied together to give the total “Expenses Sum”.

The amount paid to each councillor is fixed at the rate being paid as at, 5 May 2021 until the end of their term of office, only to be altered if the councillor changes address or responsibility so that they would be entitled to a different amount in accordance with the two factors set out above. The rate paid will be fixed again after each election for the life of the administration, unless it is altered following a recommendation of the Independent Remuneration Panel.

### **Accommodation and Expenses – Out of Authority**

Whenever a councillor or co-opted member has to travel off the Island on Council Business this paragraph applies.

That wherever possible Members organise their travel and accommodation through the Council which pre books and makes payment. If it is not possible to pre book travel and accommodation then these costs will only be reimbursed against production of a proper receipt. The most efficient form of transport to be used in all circumstances, any changes from this have to be supported by a detailed justification. In addition to paying the cost of the most efficient form of public transport for off island travel the following mileage rates (where it is more efficient not to use public transport) will apply:

## **Motor Mileage Allowances (for off-Island travel only)**

### Motorcycles

|                |                |
|----------------|----------------|
| Up to 150cc    | 8.5p per mile  |
| 151cc to 500cc | 12.3p per mile |
| Over 500cc     | 16.5p per mile |

### Motorcars

|              |              |
|--------------|--------------|
| All vehicles | 45p per mile |
|--------------|--------------|

## **Co-Optees Allowances**

The following allowances are paid to the following co-optees:

|                                |         |
|--------------------------------|---------|
| Designated Independent Persons | £301.00 |
| Education Co-optees            | £818.00 |

## **Members of the Independent Education Appeals Panels**

Members of the Independent Education Appeals Panels are entitled to claim for mileage and subsistence (when attending any meetings of the appeals panels) at rates equivalent to that payable to other members when they attend off-Island meetings.

## **Reporting to Public**

Each Councillor is required to produce an annual report (no more than 300 words) covering what they have achieved, what they hope to achieve in the following year, and what they have been unable to achieve in the current year. This annual report is to be prepared for the annual Council each year and will not be required in the year of Council ordinary elections, when new and returning members all have the opportunity to set out their aspirations to the new Council.

3. Each member is entitled to an Isle of Wight Council IT equipment as determined by the Council. Members have access through the group room to telephones. Mobile phone costs are not met by the council.

## SCHEDULE 1 - SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, together with the amounts of those allowances for 2022/23 Only one special responsibility allowance will be paid to any member. These allowances are payable in addition to the basic allowance of **£8,832.00**.

| <b>Position</b>  | <b>Multiplier of the Basic Allowance</b> | <b>Special Responsibility Allowance</b> |
|--|--|---|
| <b>Leader</b>  | <b>2</b>                                 | £17,664.00                              |
| <b>Deputy Leader</b>   | <b>1.25</b>                              | £11,040.00                              |
| <b>Cabinet Member</b>  | <b>1</b>                                 | £8,832.00                               |
| <b>Corporate Scrutiny Chair</b>  | <b>1</b>                                 | £8,832.00                               |
| <b>Corporate Scrutiny Vice Chair</b>   | <b>0.2</b>                               | £1,766.40                               |
| <b>Health and Social Care Policy and Scrutiny Committee Chair</b>                    | <b>0.6</b>                               | £5,299.20                               |
| <b>Children's Services, Education and Skills Policy and Scrutiny Committee Chair</b> | <b>0.5</b>                               | £4,416.00                               |
| <b>Neighborhoods and Regeneration Policy and Scrutiny Committee Chair</b>            | <b>0.5</b>                               | £4,416.00                               |
| <b>Audit Chair</b>   | <b>0.4</b>                               | £3,532.80                               |
| <b>Planning Chair</b>  | <b>0.8</b>                               | £7,065.60                               |
| <b>Planning Vice Chair</b>   | <b>0.2</b>                               | £1,766.40                               |
| <b>Licensing Chair</b>   | <b>0.3</b>                               | £2,649.60                               |
| <b>Pension Fund Chair</b>  | <b>0.4</b>                               | £3,532.80                               |
| <b>Appeals Chair</b>   | <b>0.2</b>                               | £1,766.40                               |
| <b>Chairman of Council</b>   | <b>0.7</b>                               | £6,182.40                               |
| <b>Vice Chairman of Council</b>  | <b>0.2</b>                               | £1,766.40                               |
| <b>Leaders of Groups of 5 or more</b>  | <b>0.1</b>                               | £883.20                                 |
| <b>Leaders of Groups of 10 or more</b>   | <b>0.2</b>                               | £1,766.40                               |
| <b>Hampshire Police and Crime Panel Chair*</b>                                       | <b>0.6</b>                               | £5,299.20                               |

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