



**Brighton & Hove  
City Council**

**GOVERNANCE COMMITTEE  
SUPPORTING INFORMATION  
(ITEM 77)**

**4.00PM, TUESDAY, 20 MARCH 2012**

**COUNCIL CHAMBER, HOVE TOWN HALL**



# ADDENDUM

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## **Foreward to the Constitution of Brighton & Hove City Council**

These documents form the constitution of Brighton & Hove City Council prepared in accordance with the relevant local government legislation.

The constitution of the Council is important. It is at the heart of Council business. It takes the power derived from the Council's democratic mandate and distributes it within the Council. It sets a framework of how the Council and its representatives will do business with others on behalf of the City. In particular it sets out how political power will be exercised (and held to account) and how the voice of the citizen can be heard in decision making.

This constitution (introduced in May 2012) has been designed to ensure that it is as open and accountable as possible.

Inevitably a constitutional document will contain some degree of technical language or "legalese". We have tried to keep this to the minimum necessary to achieve clarity in what can be a complex system.

Finally, no constitution is set permanently in stone. Whilst this constitution is founded upon enduring principles of democratic accountability; how those principles are exercised should be the subject of regular review and revision to ensure that the city's democratically elected representatives are able to operate in the long term interests of the city.

John Barradell  
Chief Executive

May 2012

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## **PART 1**

### **THE CONSTITUTION SUMMARY AND EXPLANATION**

#### **1. The Council's Constitution**

- 1.1 Brighton & Hove City Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

#### **2. Contents of the Constitution**

- 2.1 Article 1 of the constitution commits the Council to exercising all its powers and duties in accordance with the law and this constitution in pursuit of the Council's vision which is set out in the Council's Corporate Plan 2012-2015.
- 2.2 In the achievement of its vision the Council will be guided by the Sustainable Community Strategy developed in partnership with local communities and the need to achieve best value in the delivery of services. The Local Strategic Partnership is responsible for developing the Sustainable Community Strategy and providing, together with the Council, community leadership and representation.
- 2.3 Articles 2 – 15 of the constitution explain the rights of citizens and how the key parts of the Council operate. These are:
- Members of the Council (Article 2)
  - Citizens and the Council (Article 3)
  - The Mayor (Article 4)
  - The Full Council (Article 5)
  - Committees and Sub-Committees (Article 6)
  - Overview and Scrutiny (Article 7)
  - The Audit and Standards Committee (Article 8)
  - Joint Arrangements (Article 9)
  - Officers (Article 10)
  - Decision Making (Article 11)
  - Finance, Contracts and Legal Matters (Article 12)
  - Review, Revision, Suspension, Interpretation & Publication of the Constitution (Article 13)
  - Role and powers of Chairs (Article 14)
  - Role and powers of Leader (Article 15)



### **3. How the Council operates**

- 3.1 The Council is composed of 54 Councillors (often called Members) elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their ward residents, including those who did not vote for them.
- 3.2 Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Audit and Standards Committee promotes training and education and advises Councillors on the Code of Conduct.
- 3.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council is responsible for setting the policy framework and budget, including approving specified plans and strategies. It also, through the Overview and Scrutiny function, holds the decisions of the Committees to account.
- 3.4 In addition to decision making meetings the Council may have deliberative debates when matters of city-wide importance are discussed.

### **4. How Decisions are made**

- 4.1 Most day to day decisions are made by Committees, Sub-Committees and officers. The Council has 10 policy committees (Policy and Resources; Adult Care and Health; Children and Young People; Economic Development and Culture; Housing; Environment and Sustainability; Transport; Planning; Licensing; Audit and Standards) and 5 Sub-Committees (Housing Management; Licensing Panel - which deals with licensing, registration and other appeals; Standards Panel; Personnel Appeals Panel and the Corporate Parenting Sub-Committee). When committee decisions are to be made, these are published on the Council's Committee Work Programme in so far as they can be anticipated. These decisions will generally take place in open public meetings except where personal or confidential matters are being discussed.

### **5. Overview and Scrutiny**

- 5.1 There are two Overview and Scrutiny Committees which support the work of the Council as a whole. The Committees may set up Panels to look at specific policy review or scrutiny issues. The Panels carry out reviews into matters of local concerns and, in accordance with agreed procedures, enable citizens to have a greater say in Council matters. The Overview and Scrutiny Committees also monitor the work programme of the policy committees and can call-in a decision which has been made but not yet implemented. This enables the Overview and Scrutiny Committees to consider whether decisions are

appropriate. They may recommend that a policy committee or sub-committee reconsiders their decision. They may also be consulted by the policy committees or the Council on forthcoming decisions and the development of policy.

## **6. The Council's Staff**

6.1 The Council employs staff (often called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Code of Conduct governs the relationships between officers and Members of the Council.

## **7. Citizens' Rights**

7.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. Solicitors and local advice agencies can advise on individuals' legal rights.

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

7.3 Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- inspect a copy of the constitution and obtain a copy (NB there will be a fee payable for a copy of the constitution to cover printing costs.)
- attend meetings of the Council, its Committees and Sub-committees except where confidential matters (for example personal, financial or commercial information) are being discussed;
- petition to request a referendum on changing governance arrangements (5% of the number of local government electors in the area are required to support such a petition and there can be only one referendum in any period of 10 years);
- contribute to investigations by the Overview and Scrutiny Committees in accordance with the Council's procedures;
- submit questions, deputation and petitions to Council and Council Committees;
- trigger a full Council debate on an issue supported by a petition with over 1,250 signatories;
- see non-confidential reports and background papers, and a record of key decisions made by the Council and the Committees;
- complain to the Council about failure in services or maladministration;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;

- complain to the Council's Monitoring Officer if they believe that a Councillor has not followed the Council's Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor.

7.4 For further information on the above rights as a citizen, please see the Council's website at [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk) or contact the Head of Democratic Services by writing to him at Kings House, Grand Avenue, Hove BN3 2SR.

## **PART 2 ARTICLES OF THE CONSTITUTION**

### **ARTICLE I – THE CONSTITUTION**

#### **1.01 Powers of the Council**

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

#### **1.02 The Constitution**

This constitution, and all its appendices, is the constitution of Brighton & Hove City Council.

#### **1.03 Purpose of the Constitution**

The purpose of the constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their wards and local residents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) provide a powerful and effective means of holding decision-makers to public account;
- (f) ensure that those responsible for decision making are clearly identifiable to local people and that the Council explains the reasons for decisions;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved; and
- (h) provide a means of improving the delivery of services to the community.

#### **1.04 Interpretation and Review of the Constitution**

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

The Council will monitor and evaluate the operation of the constitution as set out in Article 13 – Review, Revision, Suspension, Interpretation and Publication of the Constitution.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.01 Composition and eligibility

- (a) **Composition.** The Council comprises of 54 Members (otherwise called Councillors). There are 21 electoral wards and 2 or 3 Members are elected by the voters of each ward. One of the Councillors is elected annually as the Mayor by the elected Members to chair the Council meetings and attend to ceremonial duties.
- (b) **Eligibility.** Only registered voters of the city or those living or working there will be eligible to hold the office of Councillor.

### 2.02 Election and terms of Councillors

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years. The next local elections will take place in May 2015. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.03 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
- (i) maintain the highest standards of conduct and ethics;
  - (ii) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests identified within the ward and represent the ward as a whole;
  - (vi) be involved in decision-making and scrutinising decisions made by others under the scrutiny arrangements;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their role as Councillors and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 7 of this constitution.

**2.05 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Code of Conduct for Member/Officer Relations set out in Part 8 of this constitution.

**2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 9 of this constitution.

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.01 Citizens' rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 7 of this constitution:

- (a) **Voting.** Citizens on the electoral roll for the area have the right to vote in any European, national or local elections.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, its Committees and Sub-committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the Forward Plan what key decisions will be taken by Members or Officers and when;
  - (iii) see non-confidential reports and background papers, and a record of decisions made by the Council, its Committees and Sub-committees;
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by Overview and Scrutiny Panels subject to compliance with the relevant procedures.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Monitoring Officer about a breach of the Local Code of Conduct for Members.

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm property owned by the Council, Councillors or officers. They should also comply with the law (including byelaws) and the Council's procedures in dealing with the Council.

## **ARTICLE 4 – THE MAYOR**

### **4.01 Role and function of the Mayor**

The Mayor will be elected by Council annually. The Mayor and in his/her absence, the Deputy Mayor, will have the following roles, functions and responsibilities:

#### **(a) Chairing the Council Meeting**

- (i) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and (subject to the arrangements for scrutiny discussed in Article 7) a place at which Members are able to ask questions of the Leader and the Chairs of Committees and Sub-Committees;
- (iv) to promote public involvement in the Council's activities.

#### **(b) Civic and Ceremonial Role**

The Mayor shall be the first citizen of the City of Brighton & Hove and shall have the following civic responsibilities:

- (i) to attend such civic and ceremonial functions as the Council and the Mayor may determine generally or in appropriate cases.
- (ii) to promote the Council as a whole and act as a focal point for the community.



## **ARTICLE 5 – THE FULL COUNCIL**

5.01 The full Council is made up of the 54 elected Members of the Council.

5.02 The responsibilities of full Council include:

- Approving all key plans and strategies collectively known as the Policy Framework
- Approving the budget
- Adopting the constitution
- Appointments to Outside Bodies
- Adopting a Members Allowances scheme
- Adopting a Local Code of Conduct for Members

5.03 The full details of the functions and procedures of the Council are set out in Part 3 of the constitution.

## ARTICLE 6 – COMMITTEES AND SUB-COMMITTEES

### 6.01 Introduction

The implementation of the Council's budget and policy framework, and the discharge of its regulatory functions, is undertaken by a number of Committees and Sub-Committees with powers delegated from the full Council. The Council has also devolved powers to Partnership Boards with health bodies, under the National Health Service Act 2006 and the Children Act 2004, (and, subject to Parliamentary approval, the Health and Social Care Bill).

The Council will appoint or make appointments to the Committees, Sub-Committees, Joint Committees and Partnership Boards as set out in the left hand column of the tables below. An indication of the functions of each Committee/Sub-Committee/Joint Committee/Partnership Board is shown in column 3 of the table. The terms of reference and powers delegated to each Committee, Sub-Committee, Joint Committee and Partnership Board are more particularly set out in Part 4 of the constitution.

### 6.02 Policy and Regulatory Committees

Committee/Sub-Committee	Membership	Functions
Housing Committee	10 Members of the authority	This Committee has overall responsibility for the Council's housing functions including; Council housing, private sector housing, strategic housing including the housing investment program, homelessness and allocations, tenancy relations, housing loans and grants, and has responsibility for housing related support services.
Housing Management Consultative Sub-Committee	8 Members of the authority plus 13 non-voting co-optees.	This Sub-Committee of the Housing Committee advises the Council in the discharge of its functions as a housing landlord, including residential leases granted by the Council. The Sub-Committee includes non-voting tenant and leaseholder representatives
Adult Care & Health Committee (See also Joint Commissioning Board at 6.03 below)	10 Members of the authority	This Committee is responsible for adult social services and, overseen by the Joint Commissioning Board, the joint delivery of a number of adult social care and health services with the health service. The Committee is also responsible for the exercise of the Council's functions in respect of public health relating to adults which, subject to Parliamentary approval, transfer to the Council under the Health and Social Care Bill.

Children and Young People Committee	10 Members of the authority and up to 11 non voting co-optees	This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as Local Education Authority. The Committee is also responsible for the exercise of the Council's functions in respect of public health relating to children which, subject to Parliamentary approval, transfer to the Council under the Health and Social Care Bill. The Committee is also the Council's Children and Young Peoples Trust Board for the purposes of the Children Act 2004
Environment & Sustainability Committee	10 Members of the authority	This Committee is responsible for sustainability, parks and green spaces, <del>Gypsies, Roma, and Travellers, waste,</del> coast protection and flood defence, the seafront, environmental health, trading standards and the bereavement and coroner's services.
Transport Committee	10 Members of the authority	This Committee is responsible for highways management, traffic management and transport, parking, and related public space.
Economic Development and Culture	10 Members of the authority	This Committee discharges the Council's functions in relation to culture, arts and heritage; tourism and marketing; libraries and museums; events; leisure, sports and recreation; planning policy; economic growth and regeneration; major built environment projects; conservation and design; building control; and as local planning authority (except for the development control functions delegated to the Planning Committee).
Planning Committee	12 Members of the authority and 2 non voting co-optees (Conservation Advisory Group and Federation of Disabled People).	This Committee exercises the Council's functions in relation to development control matters.
Policy and Resources Committee	10 Members of the authority	This Committee has overall responsibility for the financial and other resources of the authority, for developing the authority's strategy and policy based on national government and local priorities and for the

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		development of partnership working. It also has responsibility for many of the services delivered to residents and customers, including electoral and ceremonial matters, legal services, complaints services, equalities and community safety, revenues and benefits, registration, and local land charges.
Personnel Appeals Panel	3 Members of the authority	This Panel, which has the status of a Sub-Committee of Policy and Resources Committee, deals with appeals against dismissals, grading and other grievances in accordance with agreed human resources procedures.
Corporate Parenting Sub Committee	5 Members of the authority and up to four non voting co-optees	This Sub-Committee of Policy and Resources is responsible for the development, implementation and monitoring of the Council's Corporate Parenting Strategy and provides challenge to ensure that the Council's duty as Corporate Parent is discharged effectively and consistently.
Licensing Committee	15 Members	This Committee discharges the Council's functions under the Licensing Act 2003. The Licensing Committee also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003. The day to day decisions on individual applications are dealt with by the Licensing Panel. The approval of the Statement of Licensing Policy is reserved to the full council. N.B. The Licensing Committee may operate as two separate committees with identical membership. The functions of the two separate committees relate to Licensing Act and non-Licensing Act functions respectively.
Licensing Panel	3 Members of the authority	The Licensing Panel is a Sub-Committee of the Licensing Committee. It hears applications under the Licensing Act 2003 where the matter is authorised or required to be dealt with by a Committee. The Panel also deals with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations. It also has general powers to hear and determine matters, which include serving as the appellate

		Committee where there is a right of appeal from a decision of an officer and no other arrangements have been made under the constitution. The Sub-Committee may operate as two separate committees with identical membership. The functions of the two separate sub-committees relate to Licensing Act and non-Licensing Act functions respectively.
Audit & Standards Committee	8 Members of the Council plus [ <i>until 30 June 2012, 3 independent Members who are not members of the Council and 2 Rottingdean Parish Council Members, and thereafter</i> ] 2 independent advisers	The Audit and Standards Committee deals with (a) financial governance and stewardship, risk management and audit and (b) issues of conduct among Members which includes dealing with complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally.
Standards Panel	Members drawn from the Audit and Standards Committee	The Panel is a Sub-Committee of the Audit and Standards Committee and its main delegated functions relate to the determination of alleged breaches of the Code of Conduct for Members.

### 6.03 Joint Committees and Partnership Boards

Committee/Sub-Committee	Membership	Functions
Joint Commissioning Board	Two groups, each with one vote, being (a) Council Members and (b) members of the Brighton & Hove Primary Care Trust	In relation to adults, the Board exercises a number of social care and health functions of the Council and Brighton & Hove Primary Care Trust under arrangements made pursuant to section 75 National Health Service Act 2006.
Health and Wellbeing Board	7 Members of the authority plus 7 further voting members determined having regard to the requirements of the Health and Social Care Bill	This Board is established as a shadow board in anticipation of the Health and Social Care Bill being enacted. The Health and Wellbeing Board in its shadow form is responsible for advising the Council, the Sussex PCT and the Clinical Commissioning Group on work to improve the health and wellbeing of the population of Brighton & Hove through the development of improved

		and integrated health and social care services. In particular it will be responsible for preparing a Joint Health and Wellbeing Strategy and a Joint Strategic Needs Assessment.
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#### 6.04 Other Committees

Committee/Sub-Committee	Membership	Functions
Overview and Scrutiny Committee	10 Members of the authority	This Committee discharges on behalf of the Council all overview and scrutiny functions, except those delegated to the Health and Wellbeing Overview and Scrutiny Committee. It considers requests for scrutiny reviews and establishes policy review and scrutiny review Panels to undertake task and finish work. It is the Crime and Disorder Committee for the purposes of the Police and Justice Act 2006. It also undertakes scrutiny of flood risk and coastal erosion plans as required by Localism Act 2011.
Health and Wellbeing Overview and Scrutiny Committee	8 Members of the authority plus 3 non voting co-optees and voting education co-optees where these are required by legislation	This Committee discharges on behalf of the Council all overview and scrutiny functions in relation to health, children and young people (including education) and adult social care.
Scrutiny Review Panels and Policy Review Panels	As determined by the Overview and Scrutiny Committee	The Overview and Scrutiny Committee has power to set up Scrutiny or Policy Panels. Each Panel meets until it has produced a report on the subject it was required to examine.
Police and Crime Panel [ <i>to be constituted by November 2012</i> ]	As determined under the relevant legislation (the Council has the right to appoint one Member)	The Police and Crime Panel is a joint committee of all local authorities in East and West Sussex and its function is to scrutinise the elected Police and Crime Commissioner.

**6.05 Delegations to Officers**

Some of the functions of the Committees and Sub-Committees and other bodies listed above may be discharged by an officer under delegated powers. Details of the functions of Committees and Sub-Committees delegated to officers are contained in the Scheme of Delegation to Officers at Part 6 of the constitution and summarised at Article 10.

**6.06 Urgency Committee/Sub-Committees**

- (a) The Council shall establish an Urgency Committee to exercise its powers. The membership of the Urgency Committee shall consist of 7 Members. The Urgency Committee may exercise its powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Council. Every decision of the Urgency Committee shall be reported for information to the next ordinary meeting of the full Council.
- (b) Each Committee of the Council may appoint an Urgency Sub-Committee to exercise its powers. The Membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups. Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

**6.07 Establishment of additional advisory bodies**

The Council or the Policy and Resources Committee may from time to time establish task groups, consultative forums, commissions, working groups, ad hoc panels or other advisory bodies, the membership of which shall be drawn from Members of the Council and/or non-voting co-optees. The proceedings of any such group shall be reported to the appropriate Committee and should include any recommendations or advice from that group. No Committee or Sub-Committee may delegate its functions to any such group.

Advisory Group/Forum	Membership	Functions
City Sustainability Partnership	4 Members of the authority and co-optees from the business community and voluntary sector and relevant Environment Agencies	To lead on the revision, implementation and monitoring of the Council's sustainability strategy and to champion the priorities of the national Sustainable Development Strategy: "Securing the Future".
Community Safety	10 Members of the	To enable community consultation

Forum	authority and representatives of relevant communities of interest	and to play a key role in identifying the priorities for the three year community safety and crime reduction strategies and to oversee the implementation of those strategies. To report to council's Policy and Resources Committees.
Area Housing Panels (x4)	All ward councillors within the boundaries of the Panel, plus tenant/resident association representatives	To consider reports relating to the Council's role as landlord, including performance, services, budgets, major repairs programme development and delivery, policy issues and service development, within the boundaries of the Area Panel and to make recommendations to the Housing Management Consultative Sub-Committee.
Joint Staff Consultation Forum	6 Members of the authority plus employee representatives	To provide a mechanism for regular communication and consultation in support of Brighton & Hove Council's approach to working in partnership with its recognised trade unions and professional associations and to maintain a healthy employee relations climate.
Arts and Creative Industries Commission	6 Members of the Council and up to 24 representatives from relevant local sectors	To help the Council support, promote and develop the arts and creative industries in Brighton & Hove.
Independent Remuneration Panel	Between 3 and 5 members who are not Members of the authority	To produce reports to the Council making recommendations in respect of Members' allowances.
Brighton & Hove City Sports Forum	36 representatives appointed by Strategic Director Place and 4 Members of the Council	To take an overview of the delivery of the sports strategy for Brighton & Hove and to advise the Economic Development and Culture Committee.
Conservation Advisory Group	Membership is drawn from representative local groups and societies	This group advises the Council on the implementation of its Conservation Strategy, major planning applications or council proposals affecting the development of policies for the protection of the historic built environment. The Group reports principally to the Planning Committee.



## **ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEES**

### **7.01 Introduction**

- (a) Overview and Scrutiny is an important element of the Council's constitution. The Committees and/or Panels which may be established from time to time to carry out Overview and Scrutiny represent powerful public forums through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the authority's functions and/or other matters affecting Brighton & Hove and hold the Committees to account for their decisions and actions;
- (b) Overview and Scrutiny is concerned with the overall well being of the City and all factors affecting this including not only Council services but those of other agencies (with a particular statutory role in respect of health services) and other matters. Overview and Scrutiny is an important mechanism for community Councillors to represent their wards and are a focus for stakeholder and community involvement.
- (c) This Article outlines the basic elements of the Overview and Scrutiny function. It should be read in conjunction with the Overview and Scrutiny Procedure Rules, which appear at Part 5 of the constitution and provide a more detailed framework for the operation of Overview and Scrutiny at Brighton & Hove.

### **7.02 Undertaking and co-ordinating Overview and Scrutiny**

- (a) The Council will appoint an Overview and Scrutiny Committee (OSC) to discharge the functions conferred by the Local Government Act 2000 as amended by the Localism Act 2011 in relation to all aspects of the Council's services and/or administration; and all matters affecting the economic, social and environmental well being of the City and/or its inhabitants.
- (b) The OSC will coordinate and manage the Overview and Scrutiny function. It may appoint ad hoc Overview and Scrutiny Review and Policy Review Panels to undertake time-limited investigations or reviews as required. It will be the Council's Crime and Disorder Committee to the extent required by the Police and Justice Act 2006.
- (c) The Health Overview and Scrutiny Committee (HWOSC) will have delegated powers to discharge the overview and scrutiny function in relation to local health services as set out in the National Health Service Act 2006.

### **7.03 The Overview and Scrutiny function**

The membership arrangements and detailed terms of reference of the Overview and Scrutiny Committee and the Health Overview and Scrutiny Committee are set out in the Overview and Scrutiny Rules at Part 5 of this

constitution. Within these terms of reference, Overview and Scrutiny has the following functions:

- (i) to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) to make reports and/or recommendations to the full Council or any Committee or Sub-Committee of the Council or any Joint Committee on which the Authority is represented or any Sub-Committee of such a Joint Committee in connection with the discharge of any of the Council's functions;
- (iii) to consider any matter affecting the area or its inhabitants and make reports or recommendations to the full Council or any Committee or Sub-Committee of the Council or any Joint Committee on which the Authority is represented or any Sub-Committee of such a Joint Committee in respect of such matters;
- (iv) to exercise the right to call-in, for reconsideration, decisions made by the Committees but not yet implemented;
- (v) to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and to make recommendations arising from the outcome of the Scrutiny process;
- (vi) to liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (vii) to review and scrutinise the performance of other agencies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee/Panel and local people about their activities and performance.

#### **7.05 Annual report**

The Overview and Scrutiny Committee will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **7.06 Proceedings of Overview and Scrutiny Committees/Panels**

The Overview and Scrutiny Committee, the HWOSC and their Review Panels and will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules in Part 5 of this constitution.

## ARTICLE 8 – THE AUDIT AND STANDARDS COMMITTEE

### 8.01 Audit and Standards Committee

The Audit and Standards Committee will be the Council's Standards Committee for the purpose of the Local Government Act 2000 and then (*anticipated from 1 July 2012*) the Localism Act 2011.

### 8.02 Role and Composition

- (a) The Audit and Standards Committee deals with:-
- financial governance and stewardship, risk management and audit and
  - issues of conduct among Members which includes dealing with complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally;
- (b) The full terms of reference of the Audit and Standards Committee are set out in the Scheme of Delegation to Committees and Sub-Committees at Part 4 of the constitution.
- (c) The Audit and Standards Committee consists of X Councillors and two independent persons to advise on standards matters, neither of whom are Councillors or officers of the Council.
- (d) All members of the Audit and Standards Committee are entitled to vote at meetings, but not the independent persons who advise on standards matters.
- (e) The Standards Panel, which has the status of a Sub-Committee of the Audit and Standards Committee, deals with (a) allegations that Members or Co-opted Members have breached the Code of Conduct and (b) the granting of dispensations to Members or Co-opted Members with pecuniary interests.
- (f) *For the period from the adoption of this constitution until the relevant provisions of the Localism Act 2011 come into force (anticipated from 1 July 2012), there will be transitional arrangements. Membership of and voting at the Audit and Standards Committee and the Standards Panel will remain as under the previous constitution, in so far as these matters relate to the 3 independent persons and the 2 representatives of Rottingdean Parish Council who serve as members of the Committee and the Panel.*

## **ARTICLE 9 – JOINT ARRANGEMENTS**

### **9.01 Arrangements to promote well being**

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

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

### **9.02 Joint local government arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's Scheme of Delegations in Part 4 of this constitution.

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

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

### **9.04 Contracting out**

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### **9.05 Joint arrangements with other public bodies**

Under Section 75 National Health Service Act 2006,t Section 10 of the Children Act 2004, and, subject to Parliamentary approval, the Health and Social Care Bill, local authorities, national health bodies and a number of other bodies have powers to delegate the exercise of some of their functions to each other and to co-operate in the exercise of their functions.

## **9.06 Existing Arrangements**

Some of the arrangements the Council has established for the joint exercise of functions or is otherwise involved in include:

- (a) The Joint Commissioning Board, in connection with the delivery of adult social services and health care;
- (b) The Health and Wellbeing Board, in connection with improving the health and well being of the population of Brighton & Hove.

## ARTICLE 10 – OFFICERS

### 10.01 Terminology

Deleted: 2

The use of the word “officers” means all employees and staff engaged by the Council to carry out its functions.

### 10.02 Management structure

Deleted: 2

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated Chief Officers. Their functions are more particularly set out in part 6 of the constitution:

Post	Main Functions and areas of responsibility
<b>Chief Executive</b>	<ol style="list-style-type: none"> <li>1. Head of Paid Service under section 4 of the Local Government and Housing Act 1989</li> <li>2. Overall corporate management and operational responsibility (including overall management responsibility for all officers)</li> <li>3. Provision of professional advice to all parties in the decision making process</li> <li>4. Responsibility for various matters in relation to Members (including taking declarations of acceptance of office and receiving resignations)</li> <li>5. Representing the Council on partnership and external bodies (as required by statute or the Council)</li> <li>6. Exercising functions delegated to other officers unless the function is required by law or the scheme of delegation to be exercised by another person (e.g. Monitoring Officer and Chief Finance Officer duties)</li> <li>7. Acting as the Returning Officer with overall responsibility for conduct of Local and National Elections overall responsibility for conduct of Local and National Elections</li> </ol>
<b>Strategic Director of People</b>	<ol style="list-style-type: none"> <li>1. Director of Children’s Services under section 18 of the Children Act 2004</li> <li>2. Children, Young People and Families</li> <li>3. Schools, Skills and Learning</li> <li>4. Adult social care and health, including section 75 joint working arrangements, (except where this function is legally required or under a rule of professional practice to be exercised by the Director of Adult Social Services)</li> </ol>

<b>Strategic Director of Place</b>	<ol style="list-style-type: none"> <li>1. Environmental awareness</li> <li>2. Planning (including building control, development control, planning strategy and sustainability)</li> <li>3. Waste (including collection, recycling, disposal and cleansing)</li> <li>4. Public safety (including environmental health, licensing and trading standards)</li> <li>5. Parks and green spaces</li> <li>6. Transport (including management of highways, traffic and parking)</li> <li>7. Economic development and regeneration</li> <li>8. Housing</li> </ol>
<b>Strategic Director of Communities</b>	<ol style="list-style-type: none"> <li>1. Arts and creative industries</li> <li>2. Venues (including the Brighton Centre)</li> <li>3. The Royal Pavilion, the libraries and the museums</li> <li>4. Tourism and Leisure</li> <li>5. Communities and Equality</li> <li>6. Seafront</li> <li>7. Community Safety and Drug Action Teams</li> <li>8. Events</li> </ol>
<b>Strategic Director of Resources</b>	<ol style="list-style-type: none"> <li>1. Legal Services (except those delegated to the Head of Legal &amp; Democratic Services as Solicitor to the Council)</li> <li>2. Democratic Services, ie services to Members of the Council</li> <li>3. Overview and Scrutiny</li> <li>4. Policy, Analysis and Performance</li> <li>5. Human Resources and Development</li> <li>6. Property &amp; Design</li> <li>7. Information and Communication Technology</li> <li>8. Corporate Communications</li> </ol>
<b>Director of Finance</b>	<ol style="list-style-type: none"> <li>1. Chief Finance Officer, responsible for the proper administration of the Council's financial affairs under section 151 Local Government Act 1972</li> <li>2. Internal audit and business risk</li> <li>3. Strategic finance</li> <li>4. Procurement</li> </ol>
<b>Director of Adult Services and Social Care</b>	Director of Adult Social Services under section 6(A1) of the Local Authority Social Services Act 1970

- (c) **Other senior officers.** The Council will engage persons for the following posts, whose functions are more particularly set out in part 6 of the Constitution.

<b>Head of Legal &amp; Democratic Services</b>	Monitoring Officer under sections 5 and 5A of the Local Government and Housing Act 1989 and the Local Government Act 2000
<b>Head of Children &amp; Families</b>	<ol style="list-style-type: none"> <li>1. Social Care</li> <li>2. Fostering &amp; Adoption</li> <li>3. Integrated disabilities</li> <li>4. School &amp; Community</li> <li>5. Early Years</li> <li>6. Young People</li> </ol>
<b>Head of Adults – Assessment</b>	<ol style="list-style-type: none"> <li>1. Community assessment</li> <li>2. Hospital assessment</li> <li>3. Learning disabilities – assessment</li> <li>4. Integrated working with Sussex Partnership Trust and Sussex Community NHS Trust</li> </ol>
<b>Head of Adults – Provider</b>	<ol style="list-style-type: none"> <li>1. Older people</li> <li>2. Learning disabilities – provider</li> <li>3. Supported employment</li> </ol>
<b>Head of Planning &amp; Public Protection</b>	<ol style="list-style-type: none"> <li>1. Environmental health &amp; licensing</li> <li>2. Trading Standards</li> <li>3. Planning</li> <li>4. Development control</li> <li>5. Building control</li> <li>6. Drug &amp; Alcohol Action Teams</li> <li>7. Community Safety</li> </ol>
<b>Head of City Services</b>	<ol style="list-style-type: none"> <li>1. Libraries</li> <li>2. Revenues and benefits</li> <li>3. Life events</li> <li>4. Access services</li> <li>5. Schools admissions</li> <li>6. Family information service</li> <li>7. Electoral services</li> </ol>
<b>Head of Tourism &amp; Leisure</b>	<ol style="list-style-type: none"> <li>1. Tourism</li> <li>2. City marketing</li> <li>3. Venues</li> <li>4. Museums</li> <li>5. Royal Pavilion</li> <li>6. Events/Outdoor events</li> <li>7. Seafront</li> <li>8. Sports facilities</li> <li>9. Sports development</li> </ol>
<b>Head of Housing &amp; Social Inclusion</b>	<ol style="list-style-type: none"> <li>1. Housing management</li> <li>2. Social inclusion</li> <li>3. <u>Gypsies, Roma and Travellers</u></li> </ol>



<b>Head of City Infrastructure</b>	<ol style="list-style-type: none"> <li>1. City Clean</li> <li>2. Parks</li> <li>3. Highway Parking</li> </ol>
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- (d) **Structure.** The Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.
- (e) **Authorisation.** Under the Council's Scheme of Delegation to Officers in part 6 of the constitution the powers delegated to the officers listed above may be exercised by other officers reporting to those officers.

#### 10.03 Functions of the Chief Executive

Deleted: 2

- (a) **Discharge of functions by the Council.** The Chief Executive will report to full Council and/or the Policy and Resources Committee as he/she considers appropriate on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Proper officer for access to information.** The Chief Executive will ensure that there are arrangements in place for decisions, together with the reasons for those decisions and relevant officer reports and background papers to be made publicly available as soon as possible.
- (c) **Restrictions on functions.** The Chief Executive, as the Head of Paid Service, may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### 10.04 Functions of the Monitoring Officer

Deleted: 2

- (a) **Maintaining the constitution.** The Monitoring Officer will maintain an up-to- date version of the constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Audit and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.

- (d) **Code of Conduct for Members.** The Monitoring Officer will ensure that all allegations of breaches of the Code of Conduct for Members are dealt with under the approved procedures.
- (e) **Conducting investigations.** When necessary, the Monitoring Officer will conduct investigations into allegations of breaches of the Code of Conduct for Members and issue reports to the Standards Panel to assist the Panel in determining whether or not the Code has been breached.
- (f) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer.

#### 10.05 Functions of the Chief Finance Officer

Deleted: 2

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take financial decisions, maladministration, financial impropriety, probity to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will be responsible for providing financial information to the media, members of the public and the community where appropriate.

#### 10.06 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

Deleted: 2

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

**10.07 Conduct**

Deleted: 2

Officers will comply with the Code of Conduct for Employees and the Code of Conduct for Member/Officer Relations set out in Part 8 of the constitution.

**10.08 Employment**

Deleted: 2

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 8 of the constitution.

## ARTICLE 11 – DECISION MAKING

### 11.01 Responsibility for decision making

The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 4 and 6 of this constitution (Scheme of Delegations to Committee and Sub-Committees and Scheme of Delegation to Officers).

### 11.02 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (the authority will give particular consideration to the implications for human rights of any proposals at an early stage in the decision making process);
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes.

### 11.03 Types of decision

- (a) **Decisions reserved to full council** relating to the functions listed in part 3 of the constitution will be made by the full Council and not delegated.
- (b) **Key decisions**

These are decisions which are likely to:-

- result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, namely above £500k per annum;
- or**
- be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

**(c) Forum for key decisions**

Key decisions can be made at Policy and Resources, by Committees and Sub Committees in accordance with the Scheme of Delegation to Committees and Sub Committees or by officers in accordance with the Scheme of Delegations to Officers.

**11.04 Decision making by the full Council**

Subject to Article 5, the Council meeting will follow the Council Procedure Rules set out in Part 3 of this constitution when considering any matter.

**11.05 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 5 of this constitution when considering any matter.

**11.06 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 11.07, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 3 of this constitution as apply to them.

**11.07 Decision making by Council bodies acting as tribunals or in partnership with other bodies**

The Council, a Committee/Sub-Committee or an officer

- (a) acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights
- (b) acting or meeting with any other body pursuant to any arrangements under section 75 of the National Health Service Act 2006, section 10 the Children Act 2004, the Health and Social Care Bill (subject to Parliamentary approval) or any other partnership arrangements will follow any proper procedures which have been agreed with that body for those arrangements.

## **ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **12.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 7 of this constitution.

### **12.02 Contracts**

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 7 of this constitution.

### **12.03 Legal proceedings**

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

### **12.04 Seal of the Council**

- (a) The common seal of the Council shall be kept in a safe place in the custody of the Head of Law.
- (b) The common seal of the Council shall be affixed to a document only on the authority of:
  - (i) a resolution of the Council;
  - (ii) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
  - (iii) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.
- (c) The affixing of the common seal shall be attested by the Monitoring Officer, the Head of Law, the Deputy Head of Law, a Principal Solicitor, Managing Principal Solicitor or the Senior Lawyer (Property) of the Council, or another solicitor authorised by the Head of Law. An entry of every sealing of a document shall be made, and numbered consecutively, in a book kept for the purpose, and shall be signed by the person who shall have attested the seal.

### **12.05 Authentication of documents**

Without prejudice to the powers delegated to the Monitoring Officer and the Head of Law under the Scheme of Delegation to Officers, where any document is necessary to any legal procedure or proceedings on behalf of the Council, it may be signed by the Monitoring Officer, the Head of Law, a Principal Solicitor, Senior Lawyer (Property) or other person authorised by the Monitoring Officer.

## ARTICLE 13 - REVIEW AND REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

### 13.01 Duty to monitor and review the constitution

The Policy and Resources Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. The Chief Executive and the Monitoring Officer will report to the Committee from time to time on the operation of the constitution.

### 13.02 Protocol for monitoring and review of the constitution

A key role for the Chief Executive and the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the officers may:

- (a) observe meetings of different parts of the Member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with them by Members, officers, the public and/or other relevant stakeholders;
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 13.03 Changes to the constitution

- (a) **Approval.** Subject to (b) and (c) below changes to the constitution will only be approved by the full Council after consideration of the proposal by the Policy and Resources Committee, the Audit and Standards Committee, the Chief Executive, or the Monitoring Officer.
- (b) The changes described in the left-hand column of the table below may be made by the person or body mentioned in the right-hand column of the table.

(i)	The establishment, abolition or changes to terms of reference, of any Sub-Committee, Advisory Body, or Joint Committee	Policy and Resources Committee
(ii)	Delegation of functions of a Committee to an existing Sub-Committee	Policy and Resources Committee or the relevant Committee
(iii)	Changes to the Scheme of Delegation to Officers	Policy and Resources Committee

(iv)	Delegation of powers from a Committee or Sub-Committee to an officer	The relevant Committee or Sub-Committee
(v)	Access to Information Procedure Rules	Head of Law
(vi)	Financial Regulations and Standard Financial Procedures	Chief Finance Officer
(vii)	Officer Employment Procedure Rules	Strategic Director Resources
(viii)	Protocol for Public Representations at Planning Committee	Planning Committee
(ix)	Forms for declaration of interests and for declaration of gifts and hospitality under the Code of Conduct for Employees	Strategic Director of Resources
(x)	Protocol for Public Questions at Committees and Sub-committees	Head of Law
(xi)	Code of Corporate Governance	Audit and Standards Committee

- (c) The Monitoring Officer may make consequential amendments to the constitution to give effect to a decision of full Council or other body authorised to change the constitution under this Article. Paragraph 11 of the introduction to the Scheme of Delegation to Officers also provides authority for the Monitoring Officer to make consequential changes to the constitution.

#### **13.04 Suspension of the constitution**

The Articles of this constitution may not be suspended. The Council Procedure Rules may be suspended in accordance with paragraph 1.7 of those Rules.

#### **13.05 Interpretation**

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



### **13.06 Publication**

- (a) The Head of Democratic Services will give a printed copy of this constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Strategic Director of Resources will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer and the Strategic Director of Communities will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

## **ARTICLE 14 – ROLE AND POWERS OF COMMITTEE AND SUB-COMMITTEE CHAIRS**

### **14.01 Appointment and general Role**

- (a) The Council's Procedure Rules (20) permit it to appoint, from amongst its voting Members, Chairs of Committees and Sub-Committees. Chairs are normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Chair in any particular case, the Chair is elected by the Committee or Sub-Committee. The Procedure Rules (20.5) bar any Member of the Council from being Chair of more than one Committee without the permission of the Council.
- (b) Usually the annual appointments made by the Council include one or more Deputy Chairs for each Committee and Sub-Committee. Deputies are generally able to exercise the powers vested in their Chairs if the Chairs are unavailable.
- (c) As further explained in paragraphs 14.03 and 14.04 below, the role of Chair has some aspects which are formally recognised by law and relate to the conduct of meetings. Also the Chair is usually, in practice, a lead Member in a particular area of the Council's work. Paragraph 14.02 outlines the way Chairs are expected to fulfil their roles.

### **14.02 Fulfilling the Role of Chair**

The Council expects that its Chairs will:-

- have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee or Sub-Committee which they chair;
- lead in the development of the work of the Committee or Sub-Committee which they chair, also taking into account the wider vision, such as corporate, cross-service and partnership issues;
- lead in service delivery and the implementation of policies approved by the Council where these relate to the Committee or Sub-Committee which they chair;
- be the spokesperson for the Committee or Sub-Committee which they chair;
- meet regularly to progress the Committee's or Sub-Committee's objectives with Deputy Chairs, Opposition Spokespersons, officers, and as appropriate other people, groups and organisations;
- represent and pursue the interests of the Committee or Sub-Committee which they chair in the community and if appropriate at regional and wider levels;
- in accordance with Council's Constitution and the provisions summarised at paragraphs 14.03 and 14.04 below, ensure that:
  - (1) the meetings of the Committee or Sub-Committee which they chair are properly conducted and
  - (2) reports of proceedings are forwarded on as necessary, for example to full Council;

- support the performance of the Council's overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;
- be a promoter and upholder of
  - (1) equalities throughout the City - particularly the Council's equalities policies;
  - (2) high standards of ethical conduct by the Council's Members and officers – particularly the Council's Code of Conduct for Members.

#### **14.03 Legal powers and Duties**

- (a) The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council's Procedure Rules, which are standing orders made under powers in the 1972 Act. For any eventuality not covered in the legislation or the Procedure Rules, it may be possible to turn to the body of common law which the Courts have developed in relation to meetings.
- (b) The following are specific functions which a Chair has under the Local Government Act 1972:-
  - a power to exercise a second (casting) vote in the event of an equality of votes on any matter;
  - a duty to sign the minutes of the previous meeting;
  - a power to agree the addition of a late item of business to the agenda, if the Chair is of the opinion that it should be considered at the meeting as a matter of urgency.
- (c) To help the Committee or Sub-Committee which they chair make effective decisions, Chairs will not only ensure that the procedural rules applying to their Committee or Sub-Committee are observed, but also that any decisions made are sound at law. With assistance from officers as necessary, Chairs will ensure that the Committee or Sub-Committee (1) observes any particular legal duties relevant to a proposed decision and (2) has regard as necessary to any general duties such as:-
  - best value;
  - compliance with the Human Rights Act 1998;
  - equalities;
  - the general fiduciary duties to its Council Taxpayers to act with financial prudence.
- (d) Finally, the Chair will ensure that the Committee or Sub-Committee reaches its decisions rationally, taking into account relevant factors and disregarding those which are irrelevant.

#### **14.04 Powers and Duties under the Council's Constitution**

Under the Council's Constitution, the role and powers of Chairs are recognised in a number of ways, including the following:-

- (a) Appointment as Chair:- Under the Council's Procedure Rules (20.1) Chairs will normally be appointed at the Council's annual general meeting.
- (b) Settling the Agenda:- Under the Council's Procedure Rules (23.2 and 23.6) Chairs have power to direct that items of business be placed on the agenda of their Committee or Sub-Committee and the order in which business is arranged on the agenda.
- (c) Conducting the meeting:- Under the Procedure Rules (in particular 27) the Chair controls the proper conduct of meetings of his or her Committee or Sub-Committee. The Chair has discretion to depart from the formality of the Rules of Debate applicable to full Council meetings and such discretion is regularly exercised.
- (d) Involvement at Urgency and other Sub-Committees:- The Council's Procedure Rules (22) make Chairs ex-officio members of any Urgency Sub-Committee of the Committee they chair and permit them to attend and speak at any meeting of a Sub-Committee appointed by their Committee.
- (e) Reserve Power to call special Meetings:- The Council's Procedure Rules (19.2) permit a Chair to call a special meeting of his or her Committee or Sub-Committee at any time.
- (f) Reporting to full Council:- It usually falls to Chairs to present any reports which need approval of full Council, under the Council's Procedure Rules (24.2).
- (g) Duty to be available for Questions:- The Council's Procedure Rules (9.2) permit any Member of the Council to give written notice and ask questions of any Chair at full Council meetings. Also a Chair (9.17) can be questioned about any report which he or she is putting before the Council.
- (h) Right to be consulted:- Under the Council's Scheme of Delegations to Officers, a number of delegated powers can only be exercised by officers after consultation with the relevant Chair.
- (i) Special Responsibility Allowance:- In recognition of the role played by Chairs, Schedule 1 of the Council's Members Allowances Scheme allocates differing levels of special responsibility allowance payment to Chairs, the levels of payment being based on the levels responsibility.

## **ARTICLE 15 – ROLE AND POWERS OF THE LEADER OF THE COUNCIL**

### **15.01 Appointment and general Role**

- (a) The Council's Procedure Rules (18.10) permit Council to appoint, from among its voting Members, a Leader of the Council (referred to in this Article as the "Leader"). The Leader is normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Leader, the Leader of the largest political group becomes the Leader.
- (b) Usually the annual appointments made by the Council include one or more Deputy Leaders who are generally able to exercise the powers vested in the Leader if he or she is unavailable.
- (c) As further explained in paragraphs 15.03 and 15.04 below, the role of the Leader is not a formal legal role, but he or she is in practice the executive head of the Council, and the Member with greatest responsibility for driving forward the broad policies of the Council. Paragraph 15.02 outlines the way the Leader is expected to fulfil his or her role.

### **15.02 Fulfilling the Role of Leader**

The Council expects that the Leader will:-

- be the political (rather than ceremonial) leader of the Council, for the benefit of all the City's communities - its citizens, taxpayers, businesses, public bodies and other public authorities;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in the development of the Council's vision for the future, policy framework, budgets and strategies;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in service delivery and the implementation of policies approved by the Council;
- represent and pursue the interests of the Council in the community and at international, national and regional levels;
- act as Chair of the Policy and Resources Committee, fulfil the role of Leader at full Council meetings and carry out as necessary the other functions mentioned at paragraph 15.04 below;
- lead in providing policy direction and guidance to the Chief Executive and Chief Officers;
- meet regularly to progress the Council's objectives with Committee Chairs, the Chief Executive and Chief Officers, Leaders of other political groups on the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc;
- support the performance of the Council's overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;

- be a promoter and upholder of
  - (1) equalities throughout the City - particularly the Council's equalities policies;
  - (2) high standards of ethical conduct by the Council's Members' and officers – particularly the Council's Code of Conduct for Members.

### **15.03 Legal Powers and Duties**

As the Council operates a Committee System, the Leader has no formal legal powers and duties vested in him or her under the Local Government Act 1972 or the Local Government Act 2000.

However, in practice, all local authorities need to appoint Leaders and each Leader will hold the most significant elected Member role within his or her authority. As described in paragraph 15.02 above, the Council's Leader will be the Council's political/elected head, the focus for policy direction and community development, and also the chief advocate and ambassador for the whole of the City.

### **15.04 Powers and Duties etc under the Council's Constitution**

Under the Council's Constitution, the Leader is recognised in the following ways:-

- Chairing Policy and Resources Committee:- The Leader will normally be appointed at the Council's annual general meeting as Chair of the Council's most senior committee, the Policy and Resources Committee. (If the Council did not appoint the Chair, it would fall to the Committee to make an appointment and it would be expected that the Leader would be appointed.) This Committee is responsible for the Council's broad policies and its finances.
- Power to attend and speak:- The Council's Procedure Rules (18.10) permit the Leader to attend and speak at any meeting of a Committee or Sub-Committee of the Council, but he or she can only vote if appointed as a voting member of the committee or Sub-Committee.
- Reserve Power to call extraordinary Council Meetings:- The Council's Procedure Rules (4.3) permit the Leader, if neither the Mayor nor the Deputy Mayor is available, to call extraordinary meetings of the full Council.
- Duty to be available for Questions:- The Council's Procedure Rules (10.2) permit any Member of the Council to give written notice and ask questions of the Leader at full Council meetings.
- Involvement in Major Emergencies:- The Leader must be informed if an emergency is likely to be or has been declared under the Council's emergency planning or business continuity procedures. Also, officers must consult the Leader before they take any emergency action which would otherwise need committee authority.

- Special Responsibility Allowance:- In recognition of the role played by the Leader, Schedule 1 of the Council's Members Allowances Scheme allocates the highest special responsibility allowance payment to the joint role of Leader and Chair of Policy and Resources Committee.

## **PART 3 – COUNCIL**

### **PART 3.1 COUNCIL FUNCTIONS**

Council is the supreme decision making body and may with some exceptions exercise any of the functions vested in Brighton & Hove City Council by law. It may also delegate many of those functions to a Committee, a Sub-Committee or an officer. In this scheme of delegation the term “full council” is used to refer to the Council exercising functions itself as opposed to acting through Committees, Sub-Committees or officers.

#### **3.01 Functions of the full Council**

The following functions may only be exercised by the Full Council:

- (a) **Constitution**
  - (i) Adopting the constitution.
  - (ii) Amending the constitution, save that Article 13 of the constitution may provide for certain sections of the constitution to be amended by a Committee, a Sub-Committee or an officer.
  
- (b) **Policy and Budget**

Approving or adopting the policy framework (see 'Meanings' below), the budget and any application to the Secretary of State in respect of any Housing Land Transfer providing that the Council may, at the time of adopting the policy framework, the budget etc., authorise a Committee, Sub-Committee, the Cabinet, a Cabinet Member or an officer to amend, modify or vary (but not revoke) the same to the extent that this is permitted under the relevant regulations.
  
- (c) **Terms of Reference of Committees**

Agreeing and/or amending the terms of reference of Committees discharging Council functions and deciding on their composition. Where the allocation of seats on a Committee or Sub-Committee has been agreed by the Council, the Chief Executive shall have delegated authority to appoint individual members to the Committee or Sub-Committee in accordance with the wishes of the relevant political group(s).
  
- (d) **Appointments to Outside Bodies**

Appointing representatives to outside bodies unless the appointment has been delegated to a Committee, Sub-Committee or an officer.
  
- (e) **Members' Allowances**

Adopting and amending from time to time the scheme for Members' Allowances.
  
- (f) **Code of Conduct**

Adopting a Local Code of Conduct in order to maintain high ethical standards in accordance with the requirements of the Localism Act 2011.



- (g) **Titles**  
Changing the name of the area, conferring the title of Honorary Alderman, Honorary Recorder or Freedom of the City.
- (h) **Appointment of Chief Executive**  
Confirming the appointment of the Chief Executive, who shall be the Head of Paid Service.
- (i) **Byelaws and Local Legislation**  
Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
- (j) **General**  
All other matters which by law must be reserved to Full Council.

### 3.02 Meanings

(a) **Policy Framework.**

The policy framework means the following plans and strategies:-

- (i) **those likely to be required by law to be adopted by Full Council**
- Statement of Pay Policy
  - Libraries Plan;
  - Sustainable Community Strategy;
  - Crime and Disorder Reduction Strategy;
  - Local Transport Plan;
  - Plans with Development Plan Document status ;
  - Youth Justice Plan;
  - Statement of Licensing Policy pursuant to the Licensing Act 2003;
  - Statement of Gambling Policy pursuant to the Gambling Act 2005.
- (ii) **those which the Council has determined should be adopted by Full Council as part of the Policy Framework:**
- Official Feed and Food Controls Service Plan;
  - City Employment and Skills Plan;
  - Sustainability Strategy (*or the successor to this strategy*);
  - Corporate Plan;
  - Health and Safety Annual Service Plan;
  - Equality and Inclusion Policy;
  - City Performance Plan
  - Traveller Strategy
  - Housing Strategy
  - Housing Allocations Policy
  - School Admission Arrangements\*

\* For the purposes of the policy framework, "School Admission Arrangements" shall comprise the council's admissions policy (as represented by the admissions booklet for primary and secondary schools) and the School Organisation Plan.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or approval of applications to the Secretary of State to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### **3.03 Council meetings**

There are three types of Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 3 of this constitution.

## **PART 3.2 COUNCIL PROCEDURE RULES**

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## COUNCIL PROCEDURE RULES

### Part 1: Introduction

- 1.1 **Application** These procedure rules apply to meetings of the Council, Committees or Sub-Committees of the Council. Where there is any inconsistency between these rules and the Budget and Policy Framework Rules or Overview & Scrutiny Procedure Rules, the latter shall prevail. In the application of these rules to Committees & Sub-Committees, greater informality may be exercised at the discretion of the Chair.

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### Amendment of Rules

- 1.2 These Procedure Rules may only be varied, revoked or added to by resolution of the Council. No arrangements shall be made whereby any Committee, Sub-Committee or officer may exercise any power of the Council to vary, revoke or add to these Procedure Rules.
- 1.3 Except where recommended by a Committee, any motion to amend, revoke or add to these Procedure Rules shall be referred without discussion to the Policy and Resources Committee for consideration and report.

### Interpretation

- 1.4 The ruling of the Mayor or person presiding at the meeting as to the construction or application of any of these Procedure Rules shall not be challenged at any meeting.
- 1.5 The definition section (Rule 33) shall apply for the purpose of interpreting expressions used in these rules. The headings and sub-headings are not part of the Procedure Rules.

### Service of Notices and Other Documents

- 1.6 Any notice, requisition, or other document which under these Procedure Rules is required to be given or delivered to the Chief Executive or to his office may be sent by letter, fax or e-mail, but shall not have been properly given or delivered until it has been received by the Chief Executive at Kings House, Grand Avenue, Hove.

### Suspension of Rules

- 1.7 Subject to 1.8 below, these Procedure Rules may be suspended by the Council provided that notice of the intention to move suspension has been included in the agenda for the meeting or at least one half of the number of Members of the Council are present. Suspension can only be for the duration of the meeting.

- 1.8 This Procedure Rule and Procedure Rules 12.1, and 29.4, are not capable of being suspended.

## **Part 2: Meetings of the Council**

**Note:** Annual meetings take place once a year as required by law and the Council may have ordinary meetings (meetings on days scheduled in advance) or extraordinary meetings (unscheduled meetings to deal with matters that cannot wait until the scheduled Council meeting).

### **Rule 2: Annual Meeting**

#### **Timing**

- 2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place during March, April or May. In accordance with custom and practice, wherever reasonably practicable, the Annual Meeting shall take place on a Thursday in May.

#### **Agenda**

- 2.2 The Annual Meeting of the Council will:
- (a) elect a person to preside if the Mayor is not present
  - (b) elect the Mayor
  - (c) elect the Deputy Mayor
  - (d) approve the minutes of the last meeting
  - (e) receive any announcements from the Mayor and/or the Chief Executive
  - (f) elect the Leader of the Council if required (see Rule 25)
  - (g) appoint at least one Overview and Scrutiny Committee, an Audit and Standards Committee and such other Committees as the Council considers appropriate
  - (h) receive nominations to outside bodies where the making of appointments to those bodies is a Council function.
  - (i) consider any business set out in the notice convening the meeting.
- 2.3 The order of business set out in 2.2 may be varied by the Mayor.

### **Rule 3: Ordinary Meetings of the Council**

#### **Meeting Days**

- 3.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council or the Policy and Resources Committee.

#### **Time and Place**

- 3.2 The time and place of the meeting will be determined by the Chief Executive. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Except in cases of urgency, at least five clear working days before a meeting, the Chief Executive will send a summons signed by him/her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **Rule 4: Extraordinary Meetings of the Council**

#### **Extraordinary Meeting called by the Mayor**

- 4.1 The Mayor may at any time call an extraordinary meeting of the Council and shall do so when such a meeting is required under the Budget and Policy Framework Procedure Rules.
- 4.2 If the Mayor is unable to act for any reason, the Deputy Mayor may at any time call an extraordinary meeting of the Council.
- 4.3 If the offices of both Mayor and Deputy Mayor are vacant, or if neither the Mayor nor Deputy Mayor are able to act for any reason, the Leader of the Council or the Policy and Resources Committee may at any time call an extraordinary meeting of the Council.

#### **Extraordinary Meeting Requisitioned by Members**

- 4.4 An extraordinary meeting of the Council may be called by submission of a requisition signed by at least five Members, specifying the business to be transacted. The requisition shall be delivered to the Chief Executive (see Procedure Rule 1.6). The meeting shall be called within 7 days of receipt of the requisition by the Chief Executive to take place as soon as reasonably practicable.

#### **Extraordinary Meeting called by Council or Officers**

- 4.5 Extraordinary meetings of the Council may also be called by the Chief Executive, the Monitoring Officer; or by resolution of the Council meeting itself.



- 4.6 No extraordinary meeting shall be called unless it is proposed to transact at the meeting business which, in accordance with statute and these Procedure Rules, may be transacted at a meeting of the Council.

#### **Rule 5: Person Presiding at Meetings of the Council**

- 5.1 Any power of the Mayor in relation to the conduct of a meeting of the Council may be exercised by the person presiding at the meeting.
- 5.2 If it is necessary to choose a person to preside in the absence of the Mayor and Deputy Mayor the Chief Executive shall invite nominations, and shall conduct the discussion in accordance with the powers of the Mayor.

#### **Rule 6: Quorum of Meetings of the Council**

##### **Quorum**

- 6.1 The quorum for Council meetings shall be 14.
- 6.2 If, at the beginning of or during any meeting of the Council, the Mayor declares that there is not a quorum present, the meeting shall stand adjourned for 15 minutes.
- 6.3 If after 15 minutes, the Mayor should declare that there is still no quorum present, the meeting shall not take place or shall end, as the case may be. Remaining business shall be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date, the remaining business shall be considered at the next ordinary meeting.

#### **Rule 7: Order of Business at Meetings of the Council**

- 7.1 The order of business at every meeting of the Council shall normally be:
- (a) In the absence of the Mayor and Deputy Mayor to choose a Member of the Council to preside;
  - (b) To receive declarations of interest;
  - (c) At the Annual Meeting, or at any other meeting after the office of Mayor has become vacant, to elect a Mayor;
  - (d) At the Annual Meeting, or at any other meeting after the office of Deputy Mayor has become vacant, to elect a Deputy Mayor;
  - (e) To approve as a correct record the minutes of the last meeting of the Council, and of any earlier meeting of which the minutes have not been already approved, and for the person presiding to sign them;

- (f) To receive communications from the Mayor;
- (g) Where the meeting has been requisitioned under Procedure Rule 4, to consider the business specified;
- (h) To consider business expressly required by statute to be decided by the Council;
- (i) To receive petitions and e-petitions;
- (j) The asking and answering of questions from members of the public;
- (k) The hearing of depositions from members of the public;
- (l) To consider petitions to be debated by the Council;
- (m) The asking and answering of questions by Members;
- (n) To consider items of business (if any) remaining from the last meeting;
- (o) To receive and consider reports, minutes and recommendations of Committees;
- (p) To consider any reports of Overview and Scrutiny Committees for debate
- (q) To consider notices of motion;
- (r) To consider any other business specified in the summons for the meeting including business for which a motion to exclude the press and public is to be put to the Council.

#### **Variation of Order of Business**

- 7.2 The order of business in paragraph 7.1 may be varied by direction of the Mayor or by resolution of the Council.

#### **Urgent Items**

- 7.3 If the Mayor decides that an item of business not included in the agenda for the meeting may be taken for reasons of urgency, such reasons must be specified and noted in the minutes and that item will be taken at the end of other items of business unless otherwise decided in accordance with paragraph 7.2 above.

## **Withdrawal of items from the Agenda**

- 7.4 After consulting the Group Leaders (or a group member acting on behalf of a political group) the Mayor may remove or withdraw any item of business from the agenda for the meeting. Consultation may take place before or during the meeting and the Mayor may (if he/she considers appropriate) adjourn the meeting for the purposes of undertaking the consultation.

## **Part 3: Notices of Motion, Questions, Petitions & Deputations**

### **Rule 8: Notices of Motion**

#### **Procedural Requirements**

- 8.1 Notice of every motion, other than a motion which under Procedure Rule 13 may be moved without notice, shall be given in writing. It shall be signed by not fewer than two Members of the Council and delivered to the Chief Executive (see Procedure Rules 1.6) by not later than 10.00 am on the eighth working day before the relevant Council meeting.

#### **Number of Notices of Motion**

- 8.2 The maximum number of notices of motion to be presented at a Council meeting shall be as follows:
- the three largest Political Groups: 2 each
  - any other Group: 1
- 8.3 Any Member not belonging to a Political Group may present not more than 1 notice of motion, at the discretion of the Mayor.
- 8.4 Where Members of a Political Group submit more than the permitted maximum number of notices of motion, the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from members of a Group shall be taken in the order in which they are received, up to the permitted maximum number.

#### **Substantive and declaratory Motions**

- 8.5 A notice of motion shall be placed on the agenda for the Council meeting unless the Members submitting the motion ask that it be first considered by a Committee or Sub-Committee. However, if the motion includes a proposal for the Council to take any substantive action or incur any expenditure (substantive motion) it shall only be considered to the extent that either the matter is noted by the Council or is referred to the relevant Committee or Sub-Committee for consideration.

- 8.6 The Policy and Resources Committee or the Monitoring Officer may issue guidance on the application of rule 8.5 above.

#### **Members Right to Speak**

- 8.7 When a notice of motion is taken at a meeting of a Committee or a Sub-Committee, a Member who has signed the motion shall have the right to attend and address the meeting.

#### **Reporting of outcome of Notice of Motion**

- 8.8 A notice of motion referred to a Sub-Committee will be reported to the next meeting of the parent Committee and to the next meeting of the Council under Procedure Rule 24. A notice of motion referred to a Committee will be reported to the next meeting of the Council for information.

#### **Moving a Motion**

- 8.9 A motion of which notice has been given must be moved at Council either by a Member who gave the notice or by some other authorised Member (authorised by the Mayor). If no such Member moves the motion it shall be postponed by consent of the Council, or treated as withdrawn.

#### **Relevance**

- 8.10 Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the authority, the area of Brighton & Hove and/or its inhabitants.

#### **Consultation**

- 8.11 Where the Council is in the process of consulting with the public on a proposal, no notice of motion expressing support or objecting to the proposals shall be accepted.

### **Rule 9: Questions**

#### **Relevance**

- 9.1 Any question asked under this Procedure Rule shall be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or some or all of the inhabitants of that area, and does not relate to any personal or individual matter.

## **Written Questions from Members**

### **Notice**

- 9.2 If a Member of the Council wishes to ask a question at a meeting of the Council of: (a) the Mayor, (b) the Leader of the Council, (c) the Chair of any Committee or Sub-Committee (or in the Chair's absence the Deputy Chair), or, (d) a Member of the Council appointed by the Authority to any external body or joint authority, he/she shall give notice in writing to the Chief Executive of the question (see Procedure Rule 1.6) by not later than 10.00 am on the eighth working day before the meeting at which the question is to be asked.

### **List of Questions**

- 9.3 A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked.

### **Waiver of notice requirements**

- 9.4 If the Mayor considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of the Council although due notice of the question has not been given, and if the Mayor is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.

### **Answers**

- 9.5 The questions included on the list of questions at 9.3 above shall be taken as read at the Council meeting. The question will be answered by a written answer made available at the Council meeting, but the person to whom the question has been put may decline to answer it on the condition that he/she provides a written reason for such a decision at that time. No supplementary questions shall be permitted on written questions.

### **Form of Answers**

- 9.6 An answer to a question may be given by the person to whom it is addressed or by a person on his/her behalf, and may take the form of a written answer, which shall be circulated to Members of the Council as soon as reasonably practicable.

## **Oral Questions from Members**

- 9.7 A period of not more than 30 minutes shall be allowed for oral questions from Members, at the expiry of which the meeting shall proceed to the next business.

- 9.8 If a Member of the Council wishes to ask an oral question at a meeting of the Council of: (a) the Mayor, (b) the Leader of the Council, (c) the Chair of any Committee or Sub-Committee (or in the Chair's absence the Deputy Chair), or, (d) a Member of the Council appointed by the Authority to any external body or joint authority, he/she shall give notice in writing to the Chief Executive of the subject matter of question (see Procedure Rule 1.6) by not later than 10.00 am on the eighth working day before the meeting at which the question is to be asked.
- 9.9 Oral questions shall relate to matters of general policy only. Questions of a technical or purely operational nature may be disallowed by the Mayor, or the Member to whom such a question is directed may decline to answer or state that a written answer will be provided.
- 9.10 In deciding whether a question is technical or operational in nature, as opposed to a matter of general policy, the Mayor and Members shall have regard to any guidance issued by the Monitoring Officer.
- 9.11 Oral questions shall be taken in the following order:
- Leader of the Official Opposition
  - Leader of the Labour & Co-operative Group
  - Members of the Green, Conservative and Labour & Co-operative Groups (in that order)
- 9.12 Each Group shall submit to the Mayor in advance of the meeting the order in which they wish their questions to be taken. The Mayor shall have regard to, but not be bound by, these submissions.
- 9.13 The Mayor may allow the Independent Member to ask a question.
- 9.14 A Member may ask no more than one oral question at the same Council meeting.
- 9.15 A Member asking an oral question (but no others) may ask one relevant supplementary question which shall be put and answered without discussion.

#### **Application of Rules to Other Meetings**

- 9.16 The rules as to oral questions from Members set out in procedure rules 9.8-9.15 shall not apply to meetings of Committees and Sub-Committees. Instead the procedure on written questions shall apply to such meetings providing that a Member who asked a question may ask one relevant supplementary question which shall be put and answered without discussion.

## **Oral Questions from Members on Reports**

- 9.17 A Member of the Council may ask the Chair or other Member of a Committee who will be moving, or has moved, the reception of a report an oral question upon an item of the report, either at the time provided for Members' Questions under Procedure Rule 7.1 or when that item is under consideration by the Council. The Member who will be moving, or has moved, the reception of that report may, at his/her discretion, nominate another Member to reply to the question.

## **Public Questions**

### **Public Question Time**

- 9.18 A period of not more than fifteen minutes shall be allowed for questions submitted by a member of the public who either lives or works in the area of the authority at each ordinary meeting of the Council.

### **List of Questions**

- 9.19 A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked.

### **Procedural Requirements**

- 9.20 A public question shall be put at a Council meeting provided that:-
- (a) a copy of the question has been delivered to the office of the Chief Executive (see Procedure Rule 1.6) by not later than 12 noon on the fifth working day prior to the day of the Council meeting at which it is to be asked;
  - (b) the name and address of the questioner is indicated on the question;
  - (c) the questioner is present at the time when the question is put.

### **Length of Questions**

- 9.21 A question shall not exceed 100 words in length. The Chief Executive, after consultation with the questioner, may summarise a question to comply with this requirement.

### **Content of Questions**

- 9.22 The Chief Executive may reject a question if it:
- is not about a matter for which the Authority has a responsibility or which affects the City;

- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council, a Committee meeting or a Sub-Committee meeting in the past six months; or
- requires the disclosure of confidential or exempt information.

#### **Formal Referral of Questions**

- 9.23 If the Mayor considers that it would be more appropriate to do so, a question received for submission to Council may instead be referred to the relevant Committee or Sub-Committee (but not Joint-Committee) for answer and shall be dealt with in accordance with the Council's Protocol for Public Questions at Committee and Sub-Committee meetings.

#### **Waiver of notice requirement**

- 9.24 If the Mayor considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of the Council although due notice of the question has not been given, and if the Mayor is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.

#### **Putting Questions**

- 9.25 Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions. Any question shall be notified to the relevant Member of the Council and shall be put to such Member at the Council meeting by the questioner.

#### **Answers**

- 9.26 Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer. The person who asked the question may ask one relevant supplementary question, which shall be put and answered without discussion.

#### **Form of Answers**

- 9.27 An answer may take the form of:-
- (a) a direct oral answer; or
  - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
  - (c) where the reply to the question cannot conveniently be given orally, a written answer given to the member of the public submitting the question and circulated to the Council.



- 9.28 No questioner may submit more than one question for answer at the same meeting.
- 9.29 Any question properly submitted but not dealt with at the Council meeting shall be answered in writing to the questioner as soon as reasonably practicable after the meeting.

## **Rule 10: Petitions**

### **Presentation of Petitions**

- 10.1 At a meeting of the Council any Member of the Council or a Member of the public may present a petition which is submitted in accordance with the Council's scheme for handling petitions.
- 10.2 The presentation of the petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition and indicating the number and description of the signatories.
- 10.3 Petitions shall be presented in the order in which notice of them is received by the Mayor.

### **Action following Petitions**

- 10.4 A petition with less than 1250 signatories presented to the Council meeting shall be received without discussion and shall be included on the agenda for the next available meeting of the relevant Committee or Sub-Committee. The Member of the Council or member of the public presenting the petition shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme.

### **Debate on Petitions**

- 10.5 A qualifying petition with 1250 or more signatures will trigger a debate at Full Council, except where the petition is asking for a senior officer to give evidence.
- 10.6 A petition meeting the criteria set out at 10.5 above may be debated at the meeting at which it is presented or at a later meeting.
- 10.7 There shall be a guillotine on the debate on the petition of 15 minutes, after which the vote will be put, unless the Mayor at his or her discretion extends the debate.
- 10.8 The Council will decide how to respond to the petition and shall decide either:-
- To take the action the petition requests;

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

### **Officer Evidence**

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

### **Rule 11: Deputations**

- 11.1 A period of not more than fifteen minutes shall be allowed at each ordinary meeting of the Council for the hearing of deputations from members of the public.

#### **Procedural Requirements**

- 11.2 A deputation shall be heard provided that by not later than 12 noon on the fifth working day prior to the day of the relevant Council meeting:
- (a) notice has been given to the Chief Executive in accordance with Procedure Rule 1.6, which complies with paragraphs (b) to (d) below;
  - (b) the subject matter of the deputation is notified in writing. A deputation shall not exceed one side of A4 in length. Accompanying material may be supplied and should comprise no more than 2 sides of A4 paper;
  - (c) the names, addresses and organisation (if any) of the persons forming the deputation, to be no more than six, indicating which one person is to speak, are notified in writing (note - the addresses of those persons forming the deputation will not be published by the council, but details of the ward(s) in which they are located will be circulated to the Council meeting).

## Relevance

- 11.3 Any deputation under this Procedure Rule shall be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or some or all of the inhabitants of that area, and does not relate to any personal or individual matter.

## Time allocated for presentation

- 11.4 Each deputation may be heard for a maximum of 5 minutes following which one Member of the Council, nominated by the Mayor, may speak in response. It shall then be moved by the Mayor and voted on without discussion that the deputation be thanked for attending and its subject matter noted.

## Action following Deputation

- 11.5 The subject matter of a deputation heard at the Council meeting shall be included on the agenda for the next available meeting of the relevant Committee or Sub-Committee. The persons forming the deputation shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in relation to the matters set out in the deputation.

## Part 4: Conduct of Meetings

### Rule 12: Minutes

- 12.1 Minutes of every meeting of the Council, Committees and Sub-Committees shall be submitted to and signed at the next following ordinary meeting of the body concerned.

- 12.2 The Mayor or Chair shall put the question that the minutes submitted to the meeting be approved as a correct record.

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- 12.3 No discussion shall take place upon the minutes, except upon their accuracy. Any question as to accuracy shall be raised by motion. The Mayor or Chair shall then sign the minutes.

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- 12.4 The minutes shall record the names of Members present and any decisions taken at the meeting. To assist with the record of attendance all members present during the whole or part of any meeting must sign their names on an attendance sheet before the conclusion of the meeting.

- 12.5 The minutes will be recorded in a book of loose leaf pages and when signing the minutes, the Mayor or Chair shall sign each page of the approved minutes.

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- 12.6 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **Rule 13: Motions and Amendments**

#### **Motions where notice is not required**

- 13.1 The following motions may be moved without notice at any meeting:
- (a) to elect in the event of a vacancy a Mayor, or Deputy Mayor, or Chair, or Deputy Chair or to appoint a person to preside at the meeting at which the motion is made;
  - (b) motions relating to the accuracy of the minutes;
  - (c) motions relating to a change in the order of business;
  - (d) motions extending the time limit for speeches;
  - (e) “that the Council (or Committee or Sub-Committee) proceed to the next business”;
  - (f) “that the question be now put”;
  - (g) “that the debate be now adjourned”;
  - (h) “that the Council (or Committee or Sub-Committee) do now adjourn”;
  - (i) motions as to the termination of meetings;
  - (j) motions relating to the suspension of Procedure Rules without notice;
  - (k) motions to exclude the public from a meeting where there is likely to be otherwise disclosure of exempt or confidential information, in accordance with the Access to Information Procedure Rules set out in Part 7 of the constitution;
  - (l) motions giving consent of the Council, Committee or Sub-Committee where it is required under these Procedure Rules;
  - (m) motions to appoint a Committee or Member arising from an item on the summons for the meeting;

- (n) motions to refer a petition which has been presented to the Council or any other matter to a Committee or Sub-Committee or other appropriate body or individual for consideration;
- (o) motions relating to deputations under Procedure Rule 11.4.

#### **Moving Recommendations**

- 13.2 On consideration of a report or a recommendation from a Committee, Sub-Committee or officer, the adoption of the report or recommendation and any resolutions consequential upon that adoption may be moved without notice.

#### **Amendment to Motions**

- 13.3 Subject to the requirements of procedure rule 15.4 as to notice, an amendment to a motion may be moved, but shall be relevant to the motion. No amendment shall be moved to an amendment.
- 13.4 An amendment shall be either to refer the matter to a Committee, Sub-Committee or an officer for consideration, to leave out some or all words, or to insert or to add other words, but such omission, insertion or addition of words shall not have the effect of simply negating the motion before the meeting

#### **Alteration/Withdrawal or Amendments of Motions**

- 13.5 With the consent of the meeting, signified without discussion, a Member may:
- (a) alter a motion of which he/she has given notice;
  - (b) with the further consent of the seconder, alter a motion which has been moved and seconded; if the alteration is one which could be made as an amendment.
- 13.6 With the consent of the seconder and the meeting, signified without discussion, the mover of a motion or an amendment may withdraw it. No Member shall speak to such a motion or amendment after the mover has asked consent for its withdrawal, unless such consent has been refused.

#### **The 6 Month Rule**

- 13.7 At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period. Such a motion may be moved if it is recommended by a Committee or Sub-Committee or notice of such motion has been given by as many Members as will constitute a quorum of the Council (14) on the summons to the meeting.

## Consent

- 13.8 Where the consent of the Council, Committee or Sub-Committee is required for anything, that consent may be given either by the Mayor or Chair asking the meeting whether there are any objections to the consent being given, and if no objection is raised, giving that consent, or if objection is raised, or if the Mayor or Chair so chooses, by a motion moved, seconded and put to the meeting.

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## Rule 14: Written Reports

- 14.1 No report upon which decisions are proposed to be made shall be taken at any meeting of the Council, a Committee or Sub-Committee, unless it is in writing.
- 14.2 Verbal amendments and additions to written reports may be made unless the effect is to nullify the recommendations in the report and replace them with others, other than for special reasons which must be recorded in the minutes.
- 14.3 Where petitions under Procedure Rule 10, Members' letters under Procedure Rule 23.3, motions under Procedure Rule 8 or deputations under Procedure Rule 11, are referred to a committee unaccompanied by a written report, the committee may discuss the petition, letter, motion or deputation, as the case may be, in general terms and note the same, or ask for an officer report on the matter. No decision which requires the Council to take substantive action or incur expenditure may be taken in response to a request in a petition, notice of motion etc, in the absence of an officer report.

## Rule 15: Rules of Debate (All Meetings)

### General

- 15.1 The rules of debate in this Procedure Rule shall apply to all meetings of the Council, Committees and Sub-Committees. In the case of Committees and Sub-Committees, however, the Council recognises that a greater informality may be exercised by the Chair in order to efficiently transact the business before the meeting. Such informality shall be at the discretion of the Chair.

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### Seconding Motions and Amendments

- 15.2 A motion or amendment shall not be discussed unless it has been proposed and seconded.

### **Reserving Speech**

- 15.3 When seconding a motion or amendment, a Member may reserve his/her speech until a later period of the debate before declaring his/her intention to do so.

### **Notice of Amendments**

- 15.4 Copies of amendments will be prepared and circulated prior to the start of a Council meeting only if such amendments are presented to the Chief Executive by 10.00am on the day of the Council meeting. Amendments for which notice has not been given shall be permitted at any time, provided they are moved and seconded. The Mayor or Chair may require that such amendments shall be put in writing and handed to him/her before they are discussed further.

### **One amendment at a time**

- 15.5 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of.
- 15.6 If an amendment is not carried, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion to which any further amendment may be moved.

### **Speeches**

- | 15.7 If two or more Members offer to speak, the Mayor or Chair shall call on one to speak. Deleted: man
- | 15.8 When speaking, a Member shall address the Mayor or Chair. Deleted: man
- 15.9 A Member shall direct his/her speech to the question under discussion, or to a personal explanation or to a point of order under the provisions of the next paragraph.

### **Point of Order**

- 15.10 A Member claiming to speak on a point of order or in personal explanation shall be entitled to be heard forthwith. The point of order shall relate only to an alleged breach of a specified statutory provision or a specified Procedure Rule, and the way in which the member raising it considers that it has been broken. Personal explanation shall be confined to some material part of the speech by him/her which may appear from the current debate to have been misunderstood.

- 15.11 The ruling of the person presiding on a point of order or on the admissibility of a personal explanation shall not be open to discussion except on a motion of which due notice has been given.

#### **Procedural Motions**

- 15.12 When a motion is under debate, no other motion shall be moved except the following:

- (a) to withdraw or amend the motion;
- (b) a closure motion under the next paragraph;
- (c) a motion dealing with the prevention of disorder;
- (d) a motion to exclude the press and public.

#### **Closure Motions**

- 15.13 The following closure motions shall be permitted during discussion of another motion. They shall be moved, seconded and put without discussion. If the motion is moved and seconded, then the person presiding shall proceed as follows:

- (a) **“that the meeting proceed to the next business”**. The person presiding shall permit the mover of the original motion to reply, and then put to the vote the motion to proceed to the next business; if that motion is carried the original motion shall lapse;
- (b) **“that the question be now put”**. If the person presiding is of the opinion that the matter before the meeting has been insufficiently discussed he/she may refuse to accept the motion; if he/she accepts the motion, he shall put to the vote forthwith the motion that the question be now put; if this is carried, he/she shall permit the mover of the original motion (at meetings of the Council) any right of reply to which he/she is entitled and then put that motion to the vote;
- (c) **“that the debate be now adjourned”** or **“that the meeting do now adjourn”**. If the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, he/she may refuse to accept either of these motions, and instead put the motion that the question be now put; if he/she is of the opinion that the matter has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, he/she shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion; the original motion or remaining business shall then stand over as uncompleted business until the next meeting of the Council, Committee or Sub-Committee, as the case may be.



## **Rule 16: Rules of Debate (Council Meetings Only)**

### **General**

- 16.1 A Member shall stand when speaking unless unable to do so.
- 16.2 When a Member is speaking, the other Members shall remain seated, unless rising to a point of order or in personal explanation.
- 16.3 Whenever the Mayor rises during a debate, a Member then standing shall resume his/her seat and the Council shall be silent.

### **Speech Times**

- 16.4 Except with the consent of the Council, signified without comment, the mover of a motion shall not speak for more than 5 minutes and no other speaker shall speak for more than 3 minutes. For the purposes of this paragraph a person who moves an amendment is not moving a motion, and the length of time allotted to the mover of a motion does not include any time permitted under a right of reply. Any extension of time for speeches consented to by the Council shall be limited to 5 minutes.
- 16.5 A Member who has spoken on any motion shall not speak again while it is the subject of debate, except:
  - (a) to speak once on an amendment moved by another Member;
  - (b) if the motion has been amended since he/she last spoke, to move a further amendment;
  - (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment to which he/she spoke was carried;
  - (d) in exercise of a right of reply under paragraph 16.6 below or within a closure motion debate;
  - (e) on a point of order or by way of personal explanation as defined in 15.10.

### **Right to reply**

- 16.6 The mover of a motion has a right of reply at the close of debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on that amendment.

### **Motions and related reports**

- 16.7 Where a notice of motion submitted to the Council meeting in accordance with Procedure Rule 8 relates to a matter which is also the subject of a report from a Committee to the same Council meeting, the Mayor may at his/her discretion, and for procedural purposes only, treat the notice of motion as if it were an amendment to the report of the Committee, providing that both the mover of the notice of motion and the Member moving the report will have a right of reply.

### **Right to reply when Amendment is accepted**

- 16.8 Where the mover of a motion is permitted to alter the same under procedure rule 13.5 and such an alteration incorporates an amendment moved by another Member, the mover of the original motion shall retain ownership of the motion and be entitled to a right of reply at the conclusion of the debate.

### **Rule 17: Termination of Meeting**

- 17.1 Without prejudice to 17.2 below, when a period of four hours excluding adjournments has elapsed since the commencement of a meeting of the Council, the Mayor shall move, without comment, that the meeting ends and that business be concluded in accordance with Procedure Rule 17.5.
- 17.2 At a time when a period of not less than four hours excluding adjournments has elapsed since the commencement of the meeting of the Council a Member of the Council may move, without comment, that the meeting shall end at a time to be specified in the motion.
- 17.3 The Mayor may refuse to accept the motion moved under 17.2 above if a similar motion has been rejected earlier in the same meeting.
- 17.4 If a motion under 17.2 is accepted, it shall be seconded and put to a vote without comment.
- 17.5 If the motion under 17.1 or 17.2 is passed then immediately after the vote (in the case of a motion under rule 17.1 or when the time specified in the motion arrives (in the case of a motion under 17.2):
- (a) no further points of order shall be raised except by the Mayor;
  - (b) the Mayor shall then interrupt the discussion of the question then before the meeting;
  - (c) unless the mover of the motion then under discussion seeks leave to withdraw that motion, the Mayor shall allow him/her to reply to the debate for not more than three minutes;

- (d) unless the motion then under discussion is withdrawn, the Mayor shall put, without further discussion, all the questions necessary to dispose of that motion;
- (e) the Mayor shall put, without discussion, all the questions necessary to complete consideration of any reports which remain on the agenda for the meeting, unless the Committee Chair (or a person on his/her behalf) indicates a wish to the contrary;
- (f) the Mayor shall call each Member who has given notice of a motion to be moved at that meeting to move the motion (unless previously withdrawn) without comment, shall permit any motions so moved to be seconded without comment, and shall forthwith put any motions to the vote;
- (g) finally, the Mayor shall close the meeting.

## **Part 5: Committees and Sub-Committees**

### **Rule 18: Appointment of Committees, Sub-Committees and Representatives on Outside Bodies**

#### **Appointment of Committees**

18.1 At its Annual Meeting the Council:

- (a) may resolve, upon a recommendation from the Chief Executive or the Policy and Resources Committee consequent upon reviewing the Committee structure, which Committees shall be appointed, what shall be the terms of reference of each of those Committees, and of how many voting Members each Committee shall consist;
- (b) may resolve that non-voting members (co-optees) shall also be appointed to any such Committee;
- (c) shall specify the number of non-voting members and the functions in relation to the Committee each such person so appointed may exercise;
- (d) may resolve what limitations if any should be placed on the powers of any such Committee to arrange for the discharge by a Sub-Committee of any functions which it itself may discharge.
- (e) may receive nominations of Councillors to serve on outside bodies and may make appointments to such bodies except where this function has been delegated to a Committee, Sub-Committee or an officer.

18.2 The terms of reference of Committees as agreed from time to time are set out in Parts 5 and 6 of the constitution.

- 18.3 The Council may at any time amend resolutions made under paragraph 18.1.

#### **Delegation to Sub-Committee**

- 18.4 Every Committee may, subject to the approval of the Policy and Resources Committee, appoint Sub-Committees for such purposes as they think fit, and may (subject to Procedure Rule 18.1(d) above), make arrangements for a Sub-Committee to discharge any of the functions of the Authority which the Committee may discharge. The terms of reference of Sub-Committees as agreed from time to time are set out in Parts 5 and 6 of the constitution.

#### **Continuity of Committees & Sub-Committees**

- 18.5 Each Committee set up under this Procedure Rule, and every Sub-Committee set up by such a Committee, shall continue to discharge the functions committed to them until the Council or Committee, as the case may be, resolves otherwise.

#### **Continuity of holders of Office**

- 18.6 Every person appointed as a voting Member of such a Committee or Sub-Committee and every person appointed to exercise other functions in relation to a Committee shall continue to act as such until such time as the appointment is terminated by the Authority.

#### **Allocation of Seats**

- 18.7 The Chief Executive shall submit a report to the Council or Committee (as the case may be) showing the allocation of seats which would in his/her opinion best meet the requirements of the allocation of seats between political groups. Such report shall be submitted:
- (a) whenever the Council is required to review the allocation of seats on Committees between political groups; or
  - (b) when the Council resolves to carry out such a review; or
  - (c) when a Committee is required to review the allocation of seats on a Sub-Committee between political groups; or
  - (d) when a Committee resolves to carry out such a review.
- 18.8 In the light of such a report the Council or the Committee as the case may be shall determine the allocation of seats to political groups.

## Appointments in Accordance with the Wishes of Political Groups

- 18.9 Whenever an appointment of a voting Member for a Committee or Sub-Committee or a representative on an outside body needs to be made in accordance with the wishes of the political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Chief Executive shall make or terminate the appointment accordingly.

## Appointment of a Leader

- 18.10 The Council may appoint, from among its voting Members, a Leader of the Council. If the Council does not appoint a Leader of the Council, the Leader of the largest political group shall be the Leader of the Council.

## Attendance at Committee Meetings of Leader, Chair~~s~~ and Leader of the Official Opposition

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- 18.11 The Chair, or Deputy Chair~~s~~, of a Committee may attend and speak at a meeting of any Sub-Committee appointed by that Committee but may not vote unless appointed as a voting Member. The Leader of the Council or in his/her absence the Deputy Leaders may attend and speak at any meeting of a Committee or Sub-Committee appointed by the Council but may not vote unless appointed as a voting Member. The Leader of the Official Opposition may attend and speak at any meeting of a Committee or Sub-Committee appointed by the Council but may not vote unless appointed as a voting Member. These rules shall not apply to Committees or Sub-Committees discharging quasi-judicial or personnel appeals functions (e.g. planning, licensing, personnel appeals, standards assessment or hearing panels),

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## Attendance: All Members

- 18.12 A Member of the Council who is not otherwise entitled to attend and speak at a Committee or Sub-Committee shall be entitled to do so at a meeting of the Committee or Sub-Committee with the agreement of the Chair of the Committee or Sub-Committee.

## Advisory Bodies

- 18.13 The Council or the Policy and Resources Committee may from time to time establish working groups, forums, panels or other advisory bodies in connection with Council functions, the membership of which shall be drawn from Members of the Council and/or co-optees. The proceedings of any such groups shall be reported to the relevant Committee or Sub-Committee and should include any recommendations or advice from that group. No Committee or Sub-Committee may delegate its functions to any such group.

## Substitutes

- 18.14 Where Members of the Council who are Members of Committees or Sub-Committees are unable to attend a meeting for whatever reason, a substitute Member may attend and speak and vote in their place for that meeting.
- 18.15 The substitute Member shall be a Member of the Council drawn from the same political group as the Member who is unable to attend the meeting, and must not already be a Member of the relevant Committee or Sub-Committee. The substitute Member must declare themselves as a substitute, and be minuted as such, at the beginning of the meeting or as soon as they arrive.
- 18.16 In the case of particular Committee or Sub-Committees, the Council may approve a panel of substitutes and, in such case, no Member may act as a substitute unless he/she is on the panel of substitutes for the Committee or Sub-Committee concerned.

## Substitutes in Overview and Scrutiny

- 18.17 The provisions of Procedure Rule 18.14 to 18.15 regarding substitute Members shall not apply in respect of meetings of Scrutiny Review Panels and Policy Review Panels.

## Substitution in Licensing

- 18.18 The requirement under Council Procedure Rule 18.15 for a substitute Member to be drawn from the same political group as the Member who is unable to attend the meeting shall not apply to the Licensing Act 2003 Sub-Committee/Panel.

## Substitution on Audit and Standards Committee

- 18.19 Paragraph 18.14 shall not apply in relation to the Audit and Standards Committee. In consequence, no Member may act as a substitute on this committee.

## Rule 19: Meetings of Committees and Sub-Committees

### Time and Date of Meeting

- 19.1 The Council, the Policy and Resources Committee, or the relevant Committee or Sub-Committee, may fix the date, time and place of ordinary meetings of Committees and Sub-Committees.
- 19.2 The Chair or Deputy Chair of the Committee or Sub-Committee may call a special meeting of the Committee or Sub-Committee as the case may be at any time. Questions, petitions, Members' letters or deputations can only be heard at a Special Meeting where they relate to the matter which is the subject of the Special Meeting.

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### Requisition of a Meeting

- 19.3 One quarter of the total number of voting Members of a Committee or Sub-Committee may requisition a meeting of the Committee or Sub-Committee. Such requisition must specify the business proposed to be transacted and shall be delivered to the Chief Executive.

### Rule 20: Chairs and Deputy Chairs of Committees and Sub-Committees

#### Appointment of Chair~~s~~

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- 20.1 The Council may appoint, from amongst its voting Members, a Chair, and Deputy Chair, or Deputy Chair~~s~~ of Committees and Sub-Committees.

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- 20.2 If no appointments have been made by the Council under paragraph 20.1 above the Committee or Sub-Committee shall at its first meeting after the Annual Meeting of the Council (or in the case of a vacancy at any meeting) elect from amongst its voting Members a Chair, and Deputy Chair, or Deputy Chair~~s~~.

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- 20.3 In the absence of the Chair, or Deputy Chair, at a meeting of a Committee or Sub-Committee, those voting Members present shall elect a person from amongst their number to preside over the meeting.

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- 20.4 The Chief Executive or his/her representative shall invite nominations and shall exercise the powers of the Chair in order to regulate the discussion.

- 20.5 No Member of the Council shall be Chair, of more than one Committee without the permission of the Council.

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### Rule 21: Quorum of Committees and Sub-Committees

- 21.1 No business shall be transacted at any meeting of a Committee or Sub-Committee unless at least **one quarter** of the whole number of voting Members of the Committee or Sub-Committee are present, provided that in no case shall any business be transacted until at least two voting Members are present.

- 21.2.1 The provisions of Procedure Rule 6 shall apply to a meeting of the Committee or Sub-Committee at which a quorum is not present as they would apply if it were a meeting of the Council.

## **Rule 22: Urgency Sub-Committees**

- 22.1 Each Committee of the Council shall appoint an Urgency Sub-Committee to exercise its powers. The membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups.
- 22.2 Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

## **Rule 23: Order of Business in Committees and Sub-Committees**

- 23.1 Except in cases of urgency, at least five clear working days before the date of every meeting of a Committee or Sub-Committee, or as soon as the meeting is called, whichever is the later, the Chief Executive shall send to every voting Member and to every other person entitled to receive the papers of the Committee or Sub-Committee a copy of the agenda for the meeting.
- 23.2 The agenda shall include:
- (a) all items of business which have been, or are deemed to have been, referred to the Committee or Sub-Committee by the Council or by another Committee or Sub-Committee, as the case may be;
  - (b) all reports submitted to the Committee or Sub-Committee by the Chief Executive, Chief Officer or his/her nominee;
  - (c) any item of business directed to be included by the Chair of the Committee or Sub-Committee. Deleted: man
  - (d) the asking and answering of questions from members of the public, in accordance with the Council's Protocol for Public Questions at Committees and Sub-Committees.

### **Members' Letters**

- 23.3 Any Councillor may submit a letter for inclusion on the agenda for a meeting of any Committee or Sub-Committee, and any such letter shall be so included providing that:
- It is delivered to the Chief Executive (see Procedure Rule 1.6) by 10.00 am on the eighth working day prior to the Committee.
  - In the opinion of the Chief Executive it is relevant to the terms of reference of the Committee or Sub-Committee to which it is



- submitted, and contains a substantive proposal for consideration by the Committee or Sub-Committee
- in the opinion of the Chief Executive it is not defamatory, frivolous or offensive.

### Members' right to speak

- 23.4 Any Councillor who has submitted a letter which is included on the agenda for a Committee or Sub-Committee under Procedure Rule 23.3 shall be invited to attend the meeting of the Committee or Sub-Committee on which it is so included and may speak for up to three minutes on that item at the meeting.

### Unaccompanied letters

- 23.5 If a Councillor's letter included on the agenda for a Committee or Sub-Committee under Procedure Rule 23.3 is unaccompanied by a written officer report, it shall only be considered to the extent that either the matter is noted by the Committee or Sub-Committee or a motion that an officer report be written is carried.

- 23.6 Subject to any directions given by the Chair of the Committee or Sub-Committee, the items of business shall be arranged in such order as the Chief Executive thinks will best ensure the effective despatch of business.

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## Rule 24: Proceedings of Committees and Sub-Committees

- 24.1 A report of the proceedings of each Sub-Committee meeting shall be submitted to the next meeting of each Committee which has delegated functions to that Sub-Committee. Due to the nature of its main business, this requirement shall not apply to the Standards Panel, but at the discretion of the Chair items of business may be reported to the Audit and Standards Committee.

- 24.2 Where the relevant Committee so direct, reports of the proceedings of the Committee shall be submitted to Council for reception. The Chair of the relevant Committee, or in his or her absence the Deputy Chair or person nominated by the Chair, shall move the reception of such Committee reports and any recommendations contained therein. Committees may determine whether items are to be put to Council for information or for decision by Council. Committee reports shall distinguish items for information and those for decision by Council.

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### Inclusion of items on Council Agenda

- 24.3 (a) Items for information shall relate to decisions made by the Committee under delegated powers. The Committee may determine that any agenda item is to be included in the report to Council. In addition, each minority group represented on the Committee may specify one further item which shall be so

included, by notifying the Chief Executive of the item not later than 10.00 am on the eighth working day before the Council meeting to which the report is to be made or, if the Committee meeting takes place after this deadline, immediately at the conclusion of the Committee meeting.

- (b) Items for decision by Council shall be all those where a recommendation is made on matters falling outside the delegated powers of the Committee or where the Committee decides that the decision is to be made by the Council.

24.4 On the reception of such reports any recommendations and items under 24.3 shall be subject to rules of debate under Procedure Rule 15 subject to being reserved for debate during call-over.

#### **Call Over (Reservation of Items for Discussion)**

24.5 Before the Council receives and considers the reports of Committees, the items which appear on the agenda of the Council meeting shall be called over item by item. A Member of the Council wishing to speak on or vote against any item may reserve it for debate immediately the number of the item has been called. After the reports of Committees have been called over the Mayor shall put to the meeting in one motion the reports of the Committees with the exception of those items which have been called and reserved and the Council shall vote on the motion without discussion.

24.6 After the wishes of the Members have been so ascertained, no discussion shall be permitted on any part of the reports which is not a 'reserved item'. The Chair of each Committee shall separately move each item on the proceedings of that Chair's Committee which has been reserved.

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### **Part 6: Miscellaneous**

#### **Rule 27: Prevention of Disorderly Conduct**

##### **Misbehaviour by a Member**

27.1 If the person presiding at any meeting of the Council, Committee, Sub-Committee, Panel or working party is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, he/she may notify the meeting of that opinion, and may take any of the following courses, either separately or in sequence:

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- (a) he/she may direct the Member to refrain from speaking during all, or part, of the remainder of the meeting;

- (b) he/she may direct the Member to withdraw from all, or part, of the remainder of the meeting;
- (c) he/she may order the Member to be removed from the meeting;
- (d) he/she may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

**Misbehaviour by a Member of the Public**

27.2 If a member of the public interrupts proceedings at any meeting, the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

27.3 If there is a general disturbance making orderly business impossible, the Mayor or Chair, may adjourn the meeting for as long as he/she thinks necessary. If there is a general disturbance in any part of the meeting room open to the public the Mayor or Chair, may call for that part to be cleared.

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**Rule 28: Exclusion of Public and Press**

28.1 Members of the public and press may only be excluded from meetings of the Council, Committees or Sub-Committees either (i) in accordance with the Access to Information Rules in Part 7 of this constitution; (ii) in accordance with the provisions of Procedure Rule 27 above ('Prevention of Disorderly Conduct'), or (iii) Under common law or statutory powers available to the Council, which shall be exercisable by the relevant Chair, the Chief Executive or the Monitoring Officer.

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**Rule 29: Voting**

**General**

29.1 Except where a requisition is made under the next paragraph, the method of voting at meetings of the Council, or Committees and Sub-Committees shall be by show of hands. Voting may be by an electronic method in the case of Council meetings. Unless this constitution provides otherwise, any matter will be decided by a simple majority of the Members voting and present in the room at the time the question was put. If there is an equal number of votes for and against the motion, the Mayor or Chair, will have a second or casting vote. There will be no restriction on how the Mayor/Chair, may choose to exercise a casting vote. If the Mayor/Chair, does not exercise his/her casting vote the motion or proposal shall fall.

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### **Recorded Votes**

- 29.2 If a requisition is made by the specified number of Members, before a vote is taken on any question, the voting on that question shall be recorded so as to show whether each Member present gave his/her vote for or against that question or abstained from voting. Voting may be by an electronic method in the case of Council meetings.
- 29.3 The specified number of Members is one-fifth of the Members entitled to vote at the meeting (11 for Council meetings).
- 29.4 Except where a recorded vote has been taken, any Member who is present when the vote was taken may require that his/her vote or abstention shall be recorded in the minutes by informing the Chair forthwith, immediately after the vote is taken.

### **Voting on Appointments**

- 29.5 Where a vote is required on a motion to appoint or elect a Member of the Council to a position to be filled by the Authority, and there are two or more Members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for any one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.
- 29.6 If there is a requisition under Rule 29.2 for a recorded vote on the appointment of candidates, rule 29.5 shall apply without the requirement to put the names of those nominated in alphabetical order of surname. Each Councillor shall instead be asked to indicate their preferred candidate when his/her name is called. The rest of the requirements under rule 29.5 shall apply.

### **Rule 30: Attendance**

- 30.1 Every person attending as a Member of a meeting of the Council, Committee or a Sub-Committee shall sign his/her name in the attendance book or on the attendance sheet provided for that purpose.
- 30.2 At the end of each municipal year a report shall be circulated by the Chief Executive as to the number of meetings held by the Council and each Committee and Sub-Committee and the attendance of Members at those meetings.

### **Rule 31: Cameras/TV Cameras/Recording at Council**

- 31.1 Subject to prior approval, which shall be at the absolute discretion of the Mayor or the person presiding at the meeting, one or more accredited representatives of newspapers\* within the meaning of the

Local Government Act 1972 or any other person may be permitted to film, record or transmit the proceedings at Council meetings except for that part of the meeting where the public are excluded pursuant to a resolution passed in accordance with Section 100A(2) or (4) of the Local Government Act 1972 as amended.

[\*representatives of news agencies, radio and television organisations etc. are included within the definition of newspaper representative].

- 31.2 Any person attending a meeting of the Council or of a Committee or Sub-Committee shall observe the Council's rule that mobile telephones must be switched off at all times during such meetings.
- 31.3 The recording of proceedings by authorised personnel for the purposes of web-casting shall be permitted, providing that the Mayor or person presiding at the meeting may withdraw such authorisation if he/she considers it is not conducive to the efficient despatch of business.

### **Rule 32: Smoking at Meetings**

- 32.1 Any person at or attending a meeting of the Council or of a Committee or a Sub-Committee shall observe the Council's rule that no smoking be permitted in such meetings.

### **Rule 33: Definitions**

- 33.1 In these Procedure Rules, unless the context otherwise demands, the following terms have these meanings:

“Authority” - the Brighton & Hove City Council

“Chief Officer” - the same definition as set out in Article 10 of the constitution.

“Committee or Sub-Committee” - a Committee or Sub-Committee of Brighton & Hove City Council

“Council” - Brighton & Hove City Council sitting as the Full Council

“Group Leader” - the Leader of a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990

“Leader of the Council” - the Leader of the Council appointed in accordance with Rule 18.10.

“meeting” - a meeting of the Council, a Committee or Sub-Committee as the case may be

“Member” - in relation to the Council, a Member of the Council; in relation to any Committee or Sub-Committee a person appointed as a

Member of that Committee or Sub-Committee whether or not entitled to vote

“minority group” - a political group which is not the majority group, or in any other case designated as such by a resolution of the Council

“Monitoring Officer” - the person designated under Section 5 of the Local Government & Housing Act 1989

a “motion to exclude the press and public” - a motion under Section 100A of the Local Government Act 1972

“political group” - a political group as defined by the Local Government (Committees and Political Groups) Regulations 1990

"Regulatory Committee/Sub-Committee" - a Committee or Sub-Committee of the Council which has delegated powers to discharge some of the Council's regulatory functions

"Sub-Committee" - a Sub-Committee of Brighton & Hove City Council,

- 33.2 Unless the context otherwise requires, the singular includes the plural and the plural includes the singular; the masculine includes the feminine and the feminine includes the masculine.

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## **PART 4 - SCHEME OF DELEGATION TO COMMITTEES AND SUB-COMMITTEES**

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## INTRODUCTION AND GENERAL DELEGATIONS

### A. Introduction

1. This scheme of delegation sets out the functions of the Council to be discharged by the Council, its Committees and Sub-Committees. It also includes terms of reference of statutory and non-statutory advisory bodies set up by the Council.
2.
  - (a) The functions delegated to Committees and Sub-Committees under this scheme are subject to the Councils Standing Orders, Regulations and procedures.
  - (b) A Committee or Sub-Committee dealing with a matter that has corporate policy or corporate budgetary implications (e.g. committing the Council to expenditure that has serious impact on the overall finances of the authority) will normally refer the matter to the Policy & Resources Committee with recommendations. The Chief Executive may issue practical guidance as to the application of this paragraph. Where the position is not clear, the Chief Executive (in relation to policy matters) or the Director of Finance (in relation to budgetary matters) will make the final determination.
  - (c) Where a committee would otherwise have delegated powers to make decisions, non-compliance with paragraph 2(b) above shall not affect the validity of the decision taken.
  - (d) The acquisition or disposal of land or an interest in land shall be referred to the Policy & Resources Committee for determination. This shall not affect the relevant committees' powers to make decisions on service issues relating to their functions.
3. Where a function is delegated to a Committee, that Committee may delegate the function to its Sub-Committee(s) or an officer and the Sub-Committee(s) may delegate the function to an officer.
4. Where a function is delegated to more than one Committee or Sub-Committee, any one of those Committees or Sub-Committees may exercise the function.
5. All such matters as may be regarded as included by inference shall be comprised with the delegated functions of the Committee or Sub-Committee, and delegated functions shall include all consequential or ancillary matters as necessary.
6. In this scheme a reference to an Act of Parliament shall be deemed to include a reference to any Act by which it is applied, extended, amended, consolidated or replaced. It shall also be deemed to refer to any statutory instrument, regulations, orders, byelaws or the like made or having effect as if made under such Act.

7. Any interpretation of this scheme shall be in accordance with the Council's wishes that the scheme shall not be construed restrictively.
8. The explanatory note at the beginning of the terms of delegation of each Committee and Sub-Committee is for information only and shall not be construed as part of the terms of reference themselves.
9. In this scheme of delegations the "full Council" means Brighton & Hove City Council sitting as the Council (as opposed to acting through Committees, Sub-Committees or officers) and "Council" means Brighton & Hove City Council as a local authority.

#### **B. General Delegated Powers**

Each Committee or Sub-Committee shall have the following powers and duties in relation to its functions in addition to those set out under each Committee and Sub-Committee's terms of reference:

1. To implement best value in relation to its functions;
2. To approve bids for European and national funding for schemes in relation its functions;
3. To control and manage such resources (finance, IT, property etc.) as may from time to time be assigned to it and to authorise the acquisition or disposal of property (other than land) for the purposes of its functions;
4. To declare land surplus to the requirements of the Committee's area of service. Management and future use of the land will be transferred to the Policy & Resources Committee. Any proposed acquisition or disposal of land not covered by the delegation to officers shall be referred to the Policy & Resources Committee;
5. Subject to the Council's employment policies and procedures, to determine all employment matters within its service area;
6. To be responsible for quality and equalities matters in relation to its functions.

#### **C. General Advisory Powers**

Each Committee and Sub-Committee shall have the following advisory functions:

1. To consider and make recommendations to full Council on matters relating to or affecting the Committee or Sub-Committee's functions, including developing plans and strategies forming part of the policy framework for adoption by full Council, where the power to make decisions is reserved to full Council by law, Standing Orders or this scheme of delegations;

2. To consider and make recommendations to another Committee or Sub-Committee on matters related to or affecting its functions;
3. To consider and make recommendations to any body of the Council where it is considered desirable to do so.

## **TERMS OF REFERENCE OF COMMITTEES**

### **POLICY AND RESOURCES COMMITTEE**

#### **Explanatory Note**

This Committee has overall responsibility for the financial and other resources of the authority, for developing the authority's strategy and policy based on national government and local priorities, and for the development of partnership working. It also has responsibility for many of the services delivered to residents and customers. Its specific functions are set out in the following paragraphs.

#### **Delegated Functions**

To exercise the functions of the Council as follows:

##### **1. Policy and Strategy**

To formulate, co-ordinate and implement corporate policies and strategies and make decisions relating to such matters to the extent that they are not reserved to full Council.

##### **2. Finance and Other Resources**

- (a) To establish the framework for the allocation, control and management of the Council's resources including finance, assets, IT, land and other property;
- (b) To formulate budget proposals for adoption by the Council;
- (c) To calculate of the Council Tax Base;
- (d) To make decisions or grant authorisations on expenditure in accordance with the requirements of financial standing orders;
- (e) To deal with all financial services, including risk management, insurance and external and internal audit arrangements;

##### **3. Partnerships**

- (a) To set up, develop and review partnerships, including, but not limited to, the Local Strategic Partnership;
- (b) To co-ordinate, develop, adopt and review the Sustainable Community Strategy and make recommendations to full Council.

#### **4. Corporate Parenting**

- (a) To discharge the Council's functions as Corporate Parent for its children in care and care leavers, in conjunction with relevant Council Committees, Partnership Boards and other agencies; and
- (b) To receive reports from the Corporate Parenting Sub-Committee in relation to the Council's looked after children.

#### **5. Adult Learning and Employment**

- (a) To discharge the Council's functions under the arrangements with the Skills Funding Agency and Young People's Learning Agency for the provision of adult education; and
- (b) To discharge the Council's regarding the employment of physically disabled persons and youths, providing that the functions regarding youth employment shall be limited to the management of the existing establishment in Hove.

#### **6. Neighbourhood Renewal**

To discharge the Council's functions in respect of neighbourhood renewal, which include:

- (a) developing and implementing the neighbourhood renewal strategy for the City in order to narrow the gap between the most deprived neighbourhoods and the rest of the City, under the themes set by national Government of: housing, health, liveability, crime, education and employment and
- (b) acting as the accountable body for the neighbourhood renewal fund on behalf of the Local Strategic Partnership.

#### **7. Grants**

To deal with grants to community organisations and non-profit making bodies in the area of the Council providing that this shall not include grants in respect of educational charities which are the responsibility of the Children and Young People Committee.

#### **8. Management of Establishments**

To deal with all matters concerning establishments as are more particularly set out under the scheme of delegation to the Strategic Director of Communities and the Head of Tourism and Leisure.

## **9. Catering Services in Council Establishments**

To deal with all matters in connection with the provision of catering services in Council establishments used primarily by Council employees.

## **10. Best Value**

To establish the framework for the achievement of Best Value by the Council.

## **11. Human Resources**

To establish the framework for human resources policies and procedures and discharge the Council's functions as an employer where this is exercisable by a Committee.

## **12. Property Management**

- (a) To manage land held for the purposes of the functions of the Committee, corporately held property and land declared surplus to the requirements of a Committee or the service area of a Chief Officer by the relevant Committee or Chief Officer.
- (b) To authorise the acquisition or disposal of any land held by the Council providing that any proposal for the transfer of housing land which requires the consent of the Secretary of State shall be referred to full Council with recommendations.

## **13. Appointment to outside bodies**

To appoint representatives to outside bodies between annual Council meetings where the timing is such that it will be more expedient for the appointment to be made by Policy & Resources Committee rather than full Council.

## **14. Public Safety – Civil Contingencies**

To exercise the Council's functions in relation to emergency planning and business continuity, including the Council's functions under the Civil Contingencies Act 2004.

## **15. Community Safety**

To co-ordinate the Council's functions regarding the police and public safety and to take such action as is necessary, including:

- (i) making consultative arrangements under the Police Act 1996;
- (ii) drawing up community safety plans;
- (iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and

disorder and the making of child curfew schemes, providing that this shall not include the adoption of the Crime and Disorder Reduction Strategy

#### **16. Communities**

To co-ordinate and lead on the Council's functions in connection with community engagement and voluntary organisations.

#### **17. Equalities**

To co-ordinate and lead on the Council's functions in relation to Equalities and Inclusion

#### **18. Constitution**

- (a) To receive reports on and monitor the operation of the Constitution;
- (b) To make recommendations to Council or Overview & Scrutiny as Appropriate, with a view to improving the effectiveness, accountability and transparency of the decision-making process.

#### **19. Members' Allowances**

To consider the recommendations of the Independent Remuneration Panel and advise Council as appropriate.

#### **20. General Powers**

- (a) To discharge all other functions of the Council not specifically delegated to another Committee or reserved to full Council under the law, this scheme of delegation, standing orders or procedure rules;
- (b) To deal with matters referred to the Committee by other Committees or Sub-Committees as having corporate budgetary or policy implications.

#### **21. Sub-Committees, Task Groups and Consultation Forums**

To be responsible for the setting up, review and abolition of Sub-Committees, permanent task groups, consultation forums and commissions.

#### **22. Miscellaneous Service Functions**

To exercise the Council's functions in relation to the following services/functions:

- (a) Electoral and ceremonial matters relevant to the Council;
- (c) Matters concerning the Fire Authority;
- (d) Legal services;



- (e) Complaints services;
- (f) Performance management
- (g) Corporate procurement;
- (h) Health and safety at work (in so far as it relates to the Council as an employer);
- (i) Revenues and Benefits, including Housing Benefit and Council Tax Benefit, the administration, collection and enforcement of Council Tax and Non-Domestic Rates;
- (j) Registration of births, deaths, marriages, partnerships and associated functions;
- (k) Local Land Charges;
- (l) Corporate Information and Communication Technology Services;
- (m) Corporate communications
- (n) Democratic services.

## **PERSONNEL APPEALS PANEL**

### **Explanatory Note**

This Panel has the status of a Sub-Committee of Policy & Resources Committee and will deal with appeals against dismissals, grading and other grievances in accordance with agreed personnel procedures.

### **Delegated Functions**

To exercise the functions of the Council in relation to determining appeals against dismissals, grading and other personnel related grievances in accordance with corporate policies and procedures

**[NOTE:** a pool of trained Councillors will be maintained for this Sub-Committee and members of the pool will be called on in the first instance to form an appeals panel. However, any Councillor will be able to sit on an appeals panel and substitute for any designated member of the Sub-Committee.]

## **CORPORATE PARENTING SUB-COMMITTEE**

### **Explanatory Note**

The Corporate Parenting Sub-Committee has the status of a Sub-Committee of the Policy and Resources Committee. It acts as an advisory committee to the Council, its partners and its Committees on matters related to the Council's looked after children. Its role is to ensure that the Council and its partner agencies have a joint commitment to:-

- (a) Achieving improved outcomes for children in care and care leavers;
- (b) Developing and overseeing implementation of the Corporate Parenting Strategy to drive improved outcomes;
- (c) Providing challenge to ensure that the Council's duties as Corporate Parent are carried out effectively and consistently.

### **Delegated Functions**

1. To assist in the development, operation, monitoring and review of the Council's policies and strategies as they affect children in care and care leavers.
2. To develop, monitor and review a Corporate Parenting Strategy and work plan.
3. To promote a co-ordinated and partnership approach to the delivery of Council services as they affect children in care and care leavers and to challenge services where this is not evidenced or effective.
4. To advise the Council and its Committees on issues relevant to children in care and care leavers and to ensure that policies implemented by the Council which affect these children and young people are effective and appropriate.
5. To review and monitor outcomes for looked after children and care leavers, including data from the Corporate Parenting Report Card and feedback from the Standards & Complaints and Quality Assurance Framework officers in respect of children in care and care leavers.
6. To ensure that clear and accessible information is readily available to children in care and care leavers on the corporate parenting they can expect from the council.
7. To ensure that systems are in place which mean that the views of children and young people are represented in the development of services that affect them.
8. To report to the Council's Policy and Resources Committee and Council on a twice yearly basis.
9. To make recommendations to the relevant Committee where responsibility for a particular function rests with that Committee.

10. To appoint non voting Co-opted Members.
11. To ensure arrangements are made for the training and development of Councillors (and others as appropriate) on the Corporate Parenting role.
12. To receive reports on the discharge of the Council's functions regarding the provision of accommodation for looked after children and care leavers, and to make recommendations to the appropriate body of the Council.

## **HOUSING COMMITTEE**

### **Explanatory Note**

This Committee has overall responsibility for the Council's housing functions, including Council housing, homelessness, allocations and standards of housing in the area.

### **Delegated functions**

1. To discharge the Council's functions as a housing authority and, without prejudice to the generality of this paragraph, to discharge the specific functions set out in the following paragraphs.

#### **2. Strategic and Private Sector Housing**

To discharge the Council's functions in relation to:

- (a) The Council's housing strategy;
- (b) Homelessness and the allocation of housing;
- (c) Private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation;
- (d) Tenancy relations and the provision of housing advice;
- (e) Housing loans and grants.

#### **3. Housing Landlord Functions**

To discharge the Council's functions as a housing landlord including the management of property within the Housing Revenue Account and associated properties.

#### **4. Housing Related Support Services**

To exercise the Council's functions for the commissioning of housing related support services.

## **HOUSING MANAGEMENT CONSULTATIVE SUB-COMMITTEE**

### **Explanatory Note**

This is a Sub-Committee of the Housing Committee. The Sub-Committee will act in a consultative capacity in the discharge the Council's functions as a housing landlord, including residential leases granted by the Council. The Sub-Committee will include non-voting tenant representatives.

### **Delegated functions**

#### **1. Tenant Consultation**

- (a) To manage and supervise the Council's tenants participation scheme and such other consultation with tenants as may be necessary;
- (b) To consider reports from officers and presentations received through the tenants' consultation scheme, to advise and to make recommendations to the appropriate Committee.

## **CHILDREN AND YOUNG PEOPLE COMMITTEE**

### **Explanatory Note**

This Committee is responsible for education, children's health and social care services, public health relating to children and young people, including services to young people up to the age of 19, and exercises the council's functions as Local Education Authority. Most of these services are delivered jointly with the Health Service and, to reflect this, the Committee is also the Council's Children and Young People's Trust Board for the purposes of the Children Act 2004.

### **Delegated Functions**

To exercise the functions of the Council:

1. as a Local Education Authority under any enactment relating to education, youth services and the employment of children;
2. in relation to educational charities;
3. in partnership arrangements with other bodies connected with the delivery of education;
4. in relation to social services for children and young people;
5. in partnership arrangements with other bodies connected with the delivery of services for children, young people and families;
6. regarding families in connection with the functions of the Committee set out above or where there are no other arrangements made under this scheme of delegation;
7. under or in connection with the children and young people's partnership arrangements made with health bodies pursuant to section 75 of the National Health Service Act 2006 and section 10 of the Children Act 2004 ("the section 75 Agreements");
8. in relation to children's public health including but not limited to:
  - sexual health
  - physical activity, obesity, tobacco control programme
  - prevention and early detection
  - immunisation
  - mental health
  - NHS health check and workplace health programmes
  - dental health
  - social exclusion
  - seasonal mortality;
9. in relation to those aspects of children's public health which, subject to Parliamentary approval, will transfer to the council under the Health and Social Care Bill.

## NOTE

- (a) All the above functions shall be exercised subject to any limitations in the section 75 Agreements.
- (b) Policy issues which are relevant both to this Committee and the Adult Care & Health Committee may be considered by either of those Committees or by the Policy & Resources Committee.



## ADULT CARE & HEALTH COMMITTEE

### Explanatory Note

This Committee is responsible for adult social services, public health in relation to adults, and joint delivery of a number of social care and health services with the Health Service- see the section below relating to the Joint Commissioning Board which oversees these arrangements.

### Delegated Functions

#### 1. Adult Social Services

- (a) To exercise the social services functions of the Council in respect of adults;
- (b) To exercise all of the powers of the Council in relation to the issue of certificates to blind people; the issue of badges for motor vehicles for disabled people and the grant of assistance to voluntary organisations exercising functions within its area of delegation;
- (c) To exercise the functions of the Council in relation to the removal to suitable premises of persons in need of care and attention.

#### 2. Public Health

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To exercise the Council's functions in respect of public health relating to adults –

- (i) including but not limited to:
  - sexual health
  - physical activity, obesity, and tobacco control programmes
  - prevention and early detection
  - immunisation
  - mental health
  - NHS Healthcheck and workplace health programmes
  - dental public health
  - social exclusion
  - seasonal mortality;
- (ii) which, subject to Parliamentary approval, will transfer to the Council under the Health and Social Care Bill.

#### 3. Partnership with the Health Service

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To exercise the Council's functions under or in connection with the adult services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006 ("the section 75 Agreements").

**NOTE**

- (a) All the above functions shall be exercised subject to any limitations in the section 75 Agreements.
- (b) Policy issues which are relevant both to this Committee and the Children & Young People Committee may be considered by either of those Committees or by the Policy & Resources Committee.

## **ECONOMIC DEVELOPMENT & CULTURE COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the council's functions relating to planning policy, employment, economic growth and regeneration, culture, tourism and leisure.

### **Delegated Functions**

#### **1 Planning**

To exercise the Council's functions as local planning authority (to the extent that they are not development control functions delegated to the Planning Committee), including the formulation and development of the Development Plan Documents prior to their adoption by Full Council.

#### **2. Economic Growth and Regeneration**

- (a) To exercise the Council's functions and partnerships regarding the promotion of economic growth and the establishment and development of business.
- (b) To promote and develop the economic fundamentals of the City in areas such as adult skills, productivity, development sites etc.

#### **3. Major Built Environment Projects**

- (a) To oversee the progress of major projects (including major building, infrastructure or other projects involving the erection or significant alteration of major permanent structures or landmarks) undertaken by the Council, and advise the Policy & Resources Committee as appropriate.
- (b) To review major projects and any project Boards having regard to capacity to deliver, corporate priorities and resources, and advise the Policy & Resources Committee as appropriate.

#### **4. Conservation and Design**

To exercise the Council's functions in relation to Conservation and Design including the Hove Borough Council Act 1976.

#### **5. Building Control**

To exercise the Council's functions regarding building control.

#### **6. Culture, Arts and Heritage**

To exercise the Council's functions in relation to culture, including arts, entertainment, cultural activities and heritage.

## **7. Tourism & Marketing**

To exercise the Council's functions in relation to tourism, marketing and conferences.

## **8. Libraries and Museums**

To exercise the Council's functions in relation to libraries, museums, art galleries, historic buildings and their gardens and the functions of the Council regarding public records.

## **9. Events**

To exercise the Council's functions in relation to events, including the annual programme of entertainment events (providing that if the relevant Strategic Director, or other officer with delegated powers, is of the view that the event is a major event or has corporate budgetary or policy implications the matter shall be referred to the Policy & Resources Committee).

## **10. Leisure, Sports and Recreation**

To exercise the Council's functions in relation to the provision and management of leisure, sports and recreation facilities.

## ENVIRONMENT & SUSTAINABILITY COMMITTEE

### Explanatory Note

This Committee is responsible for the council's functions relating to parks and green spaces, Gypsies, Roma and Travellers, waste, coast protection, the seafront, and sustainability

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### Delegated Functions

#### 1. Parks and Green Spaces

To exercise the Council's functions in relation to Parks and Open Spaces to the following extent:-

- (a) provision, management and control of parks and open spaces (except those held for housing purposes);
- (b) making countryside management arrangements in liaison with the South Downs National Park Authority and other environmental bodies;
- (c) provision, management and control of allotments and smallholdings;
- (d) as commons registration authority.

#### 2. Environmental Health

To exercise the Council's functions in relation to environmental health, air pollution control, health and safety at work (except in so far as it relates to the Council as an employer), public conveniences,, food safety, control of nuisances, including noise control and control of dogs.

#### 3. Trading Standards

To exercise the Council's functions regarding trading standards, including but not limited to consumer protection, product safety, fair trading, metrology, food standards and animal health.

#### 4. Gypsies, Roma and Travellers

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To exercise the Council's functions in relation to Gypsies, Roma and Travellers including the management of authorised sites.

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#### 5. Waste

To exercise the Council's functions in relation to waste and as waste collection authority, waste disposal authority and litter authority, including dealing with litter, street cleansing, abandoned vehicles and dog fouling.

## **6. Coast Protection and Flood Defence**

To exercise the Council's functions as a coast protection authority and a lead local flood authority.

## **7. Seafront**

To exercise the Council's functions regarding the esplanade, beach and foreshore.

## **8. Bereavement and Coroner's services;**

To exercise the Council's functions in relation to bereavement services and the Coroner's service.

## **9. Sustainability**

To co-ordinate the Council's role and response to cross-cutting sustainability issues such as reducing carbon emissions, projections of a changing climate locally, improving resource efficiency and developing sustainable energy.

## **TRANSPORT COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the Council's functions relating to highways management, traffic management and transport, parking, and related matters.

### **Delegated Functions**

#### **1. Highways Management**

To exercise the Council's functions in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to highways, bridges, private streets and rights of way.

#### **2. Traffic Management and Transport**

- (a) To manage the provision of transport services for service departments including home-school transport and transport for social services;
- (b) To exercise the Council's functions in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users;
- (c) To consider and make decisions on proposed traffic orders and rights of way issues where objections have been received and not withdrawn or otherwise resolved;
- (d) To exercise the Council's powers regarding travel concessions.

#### **3. Parking**

To exercise the Council's functions in relation to parking, including on and off street parking and civil parking enforcement.

#### **4. Public Space**

To exercise the council's functions regarding spaces to which the public have rights of access and consisting of the highway, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway to which the public have access.

## **PLANNING COMMITTEE**

### **Explanatory Note**

This Committee exercises the Council's functions in relation to development control matters.

### **Delegated functions**

1. To consider and determine applications for planning permission, listed building consent, and conservation area consent submitted under the Town and Country Planning Acts.
2. To consider and determine applications for the display of advertisements Submitted under the Town and Country Planning (Control of Advertisements) (England) Regulations.
3. To determine whether prior approval applications for the construction, installation, alteration or replacement of telecommunications masts submitted under Part 24 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be granted or refused.
4. To exercise any other function of the Council under the Planning Acts whether as a local planning authority or otherwise which may be referred to it by the Strategic Director of Place or the Head of Planning & Public Protection.

**[NOTE:** The Council may approve a restricted pool of Councillors to serve as members or Substitute members of the Committee, all of whom have undergone basic training and continue to undergo the mandatory training for such members. The mandatory training will take place at least twice a year. Where such a pool has been approved, any meeting of the Committee must comprise only Councillors from the pool; no substitution by non-pool Councillors will be allowed.]



## LICENSING COMMITTEE

### Explanatory Note

The Licensing Committee is responsible for discharging the Council's functions under the Licensing Act 2003. It also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003. The day to day decisions on individual applications are dealt with by the Licensing Panel.

### Delegated Functions

#### 1. Licensing Act 2003

- (a) To discharge all functions which, under the Act, stand referred to a Licensing Committee, including, but not limited to the following:
  - (i) Applications for a personal licences;
  - (ii) Applications for premises licence/club premises certificate;
  - (iii) Applications for provisional statement;
  - (iv) Applications for Interim Authorities.
- (b) The powers of the Committee under 1(a) shall include the power to deal with all applicants for the grant, renewal, variation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Act.
- (c) The delegated powers of the Committee shall not include the adoption or review of the Statement of Licensing Policy (which are functions of Full Council).

#### 2. Gambling Act 2005

- (a) To discharge all functions which, under the Gambling Act 2005 ('the Act'), stand referred to the Licensing Committee, including but not limited to the following:
  - (i) applications for premises licences;
  - (ii) applications for provisional statements;
  - (iii) applications for club gaming / club machine permits.
- (b) The powers of the Committee under 2(a) shall include the power to deal with all applications for the grant, renewal, variation, cancellation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Act.
- (c) The powers of the Committee shall also include the power to set fees pursuant to section 212 of the Act, but shall not include the power to adopt or review the Licensing Policy, which is a function of Full Council.

### 3. Other Licensing and Registration Functions

- (a) To discharge all the Council's functions regarding licensing and registration and any associated or connected functions.

#### Referred Functions

1. To advise Full Council regarding the Statement of Licensing Policy under the Gambling Act 2005.
2. To advise Full Council regarding the Statement of Licensing Policy under the Licensing Act 2003
3. To advise the Council and other Committees on matters related to functions under the Licensing Act 2003 and the Gambling Act 2005, but are not themselves Licensing Act or Gambling Act functions.

**NOTE:** The Licensing Committee and the Licensing Panel may operate as two separate committees and sub-committees respectively with identical membership. The functions of the two separate committees/sub-committees shall relate to Licensing Act and Gambling Act functions and non-Licensing Act functions respectively.

## LICENSING PANEL

### Explanatory Note

The Licensing Panel is a Sub-Committee of the Licensing Committee. Its functions are to:-

- Hear applications under the Licensing Act 2003 and the Gambling Act 2005 where the matter is authorised or required to be dealt with by a Committee. These are usually, but not necessarily, cases where officers do not have delegated powers or a hearing is required;
- Deal with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations;
- Serve as the appellate Committee where there is a right of appeal from a decision of an officer and no other arrangements have been made under the constitution; and
- Determine any other matter of a quasi-judicial nature which may be referred to it.

### Delegated functions

#### 1. Licensing Act Functions

- (a) To deal with applications under the Licensing Act 2003 and make determinations on all matters required or authorised by the Act to be dealt with by a Committee.
- (b) The powers under (a) above shall not include the adoption of the Statement of Licensing Policy.
- (c) Where, in the opinion of the Strategic Director of Place or Head of Planning & Public Protection, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Strategic Director or Head of Service may refer the matter to the Licensing Committee.

#### 2. Gambling Act 2005 Functions

- (a) To deal with applications under the Gambling Act 2005 and make determinations on all matters required or authorised by the Act to be dealt with by a Committee.
- (b) The powers under (a) above shall not include the adoption of the Statement of Licensing Policy.
- (c) Where, in the opinion of the Strategic Director of Place or Head of Planning & Public Protection, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Strategic Director or Head of Service may refer the matter to the Licensing Committee.

### **3. Other Licensing and Registration Functions**

Within the policy framework set by the Council or the Licensing Committee, to exercise the Council's functions in relation to licensing and registration providing that the power shall not include the adoption, revocation or amendments of policies.

### **4. Determinations and Appeals**

To hear and determine cases

- (a) where there is a right (under the Human Rights Act 1998 or otherwise) to be given the opportunity to appear before and be heard by a Committee or Sub-Committee of the Council and no other arrangements have been made under the Council's constitution, or
- (b) where the case is referred to the Panel as it is considered to be a suitable forum for the determination of matters of fact and/or law, for example determinations relating to rights of way or the Council's definitive map of rights of way.

### **5. General**

For the avoidance of doubt and without prejudice to the generality of 1 to 3 above, the powers of the Panel under those provisions shall include the power to deal with all applications for the grant, renewal, variation or revocation of any licence or consent or any actions (other than the adoption or review of a Licensing Policy) which a Licensing Committee is required or authorised to take under the Licensing Act 2003 or the Gambling Act 2005

- NOTE:
- (1) Only Councillors who are members of the Licensing Committee may serve as members or substitute members of the Licensing Panel.
  - (2) The Licensing Committee and the Licensing Panel may operate as two separate committees and sub-committees respectively with identical membership. The functions of the two separate committees/sub-committees shall relate to Licensing Act and Gambling Act functions and non-Licensing Act functions respectively.

## **AUDIT & STANDARDS COMMITTEE**

### **Explanatory Note**

The Audit functions of this Committee relate to the Council's arrangements for the discharge of its powers and duties in connection with financial governance and stewardship, risk management and audit. The Committee makes recommendations to the Council, Policy & Resources Committee, Officers or other relevant body within the Council.

The Standards functions of this Committee seek to ensure that the Members, Co-opted Members and Officers of the Council observe high ethical standards in performing their duties. These functions include advising the Council on its Codes of Conduct and administering related complaints and dispensation procedures.

In addition to the Councillors who serve on the Audit and Standards Committee, the Committee includes at least two independent persons who are not Councillors. They are appointed under Chapter 7 of the Localism Act, or otherwise co-opted, and act in an advisory capacity with no voting powers.

In the terms of reference of this Committee a "Member" is an elected Councillor and a "Co-opted Member" is a person co-opted by the Council, for example to advise or assist a Committee or Sub-Committee of the Council.

### **General Audit and Standards Delegated Functions**

To review such parts of the constitution as may be referred to the Committee by the Policy and Resources Committee and to make recommendations to the Policy Resources Committee and the Council.

To appoint, co-opt or (in any case where only the Council has power) to recommend the appointment or co-option of a minimum of two independent persons

- to give general assistance to the Committee in the exercise of its functions; and
- to give views on allegations of failure to comply with a Code of Conduct as required by Chapter 7 of the Localism Act.

To have an overview of

- the Council's whistleblowing policy
- complaints handling and Local Ombudsman investigations

To deal with any audit or ethical standards issues which may arise in relation to partnership working, joint committees and other local authorities or bodies.

To ensure arrangements are made for the training and development of Members, Co-opted Members and Officers on audit, ethical and probity matters, including Code of Conduct issues

To support and advise the Chief Finance Officer and the Monitoring Officer in their statutory roles.

## **Delegated Audit Functions**

To carry out independent scrutiny and examination of the Council's financial and non-financial processes, procedures and practices to the extent that they affect the Council's control environment and exposure to risk, with a view to providing assurance on the adequacy and effectiveness of:

- the work of internal and external audit;
- the governance arrangements of the council and its services;
- the risk management and performance management frameworks and the associated control environment;
- the financial management process;
- arrangements for the prevention and detection of fraud and corruption

To meet the requirements of the Accounts and Audit Regulations Act 2011 in respect of:

- conducting an annual review of the effectiveness of the system of internal control;
- conducting an annual review of the effectiveness of internal audit;
- reviewing the outcome of annual review of governance arrangements and approving the Annual Governance Statement, ensuring its contains any actions for improvement; and
- considering and approving the Council's annual Statement of Accounts.

To consider the External Auditor's Annual Audit and Inspection Plan, Annual Governance Report, Annual Audit Letter and other relevant reports.

Consider and agree the Internal Strategy and Annual Audit Plan, Head of Audit & Business Risk's Annual Internal Audit Report including Opinion, periodic progress reports and other relevant internal audit reports.

To consider and agree the Head of Audit & Business Risk's Annual Fraud & Corruption Report and consider and approve the Council's Counter Fraud Strategy

## **Delegated Standards Functions**

To advise the Council on the adoption, revision or replacement of Codes of Conduct for (a) Members and Co-opted Members and (b) Officers;

To exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act, including the following:-

- promoting and maintaining high standards of conduct within the Council and monitoring the operations of the Council's Codes of Conduct and registers of interests;
- in relation to allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct, putting in place arrangements to investigate and make decisions;

- supporting the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish & maintain registers of interests for the Council and for Rottingdean Parish Council;
- in relation to Members or Co-opted Members with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.

**NOTE:** With the exception of the adoption, revision or replacement of the Codes of Conduct referred to above, the Audit and Standards Committee may develop and adopt its own procedures and protocols.

## **STANDARDS PANEL**

### **Explanatory Note**

The Panel of the Audit and Standards Committee is a Sub-Committee and its main roles are to carry out any functions delegated to it by the Audit and Standards Committee in relation to (a) allegations that Members or Co-opted Members have breached the Code of Conduct and (b) the granting of dispensations to Members or Co-opted Members with pecuniary interests.

Panel membership is determined in accordance with procedures approved by the Audit and Standards Committee.

### **Delegated Functions**

In accordance with procedures approved by the Audit and Standards Committee:-

1. To carry out any arrangements delegated to the Panel by the Audit and Standards Committee in connection with investigating and making decisions on allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct.
2. To hear and determine applications from Members or Co-Opted Members with pecuniary interests and in appropriate cases to grant dispensations from the restrictions on speaking and/or voting at meetings of the Council, its committees, sub-committees, joint committees or joint sub-committees.
3. To discharge any of other functions of the Audit and Standards Committee which the Committee delegates to the Panel.



## **TERMS OF REFERENCE OF PARTNERSHIP BOARDS**

### **THE JOINT COMMISSIONING BOARD**

#### **Explanatory Note**

The Joint Commissioning Board oversees a partnership between the Council and the health bodies which is responsible for commissioning, providing and overseeing a number of adult health and social care services. The partnership is governed by an Agreement between the Council and Brighton & Hove Primary Care Trust under Section 75 of the National Health Service Act 2006 ('the Section 75 Agreement'), covering the delegation of functions and pooling of budgets for services.

The Joint Commissioning Board is the top decision making body for the partnership, with delegated powers to make decisions concerning the commissioning and provision of services on behalf of the parties to the Section 75 Agreement. It is also the senior forum for the discussion of policy and strategy across the partnership as a whole, and is thus responsible for setting the strategic direction for these services.

All the decision-making powers of the Council in relation to the Section 75 Agreement will be exercised by the Adult Care & Health Committee.

#### **Delegated Functions**

To exercise the Council's functions under or in connection with the adult social care and health services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006, in the manner and to the extent that the arrangements permit the Joint Commissioning Board to exercise the functions.

**[NOTE:** fuller details of the governance arrangements relating to the adult social care and health partnership overseen by the Joint Commissioning Board are set out in the Section 75 Agreement.]

## **HEALTH & WELLBEING BOARD**

### **Explanatory Note**

This Board is established as a shadow board in anticipation of the Health and Social Care Bill being enacted. The Health and Wellbeing Board (“the H&W Board”) in its shadow form is responsible for advising the Council, the Sussex Primary Care Trust Board (“SPCT Board”) and the Clinical Commissioning Group (“CC Group”) on work to improve the health and wellbeing of the population of Brighton & Hove through the development of improved and integrated health and social care services. In particular it will be responsible for preparing a Joint Health and Wellbeing Strategy and a Joint Strategic Needs Assessment. The H&W Board’s procedures are similar to those of Council Committees, with modifications to reflect its purpose, composition and shadow status.

The H&W Board comprises 7 Councillors and 7 further members determined having regard to the requirements of the Health and Social Care Bill.

### **Delegated Functions**

1. To carry out its functions in shadow form until the Health and Social Care Bill comes into force (anticipated date 1 April 2013) when the Board will become a fully functioning Committee of the Council.
2. To lead and act as an advisory body to the Council, the SPCT Board and the emerging CC Group on work to improve the health and wellbeing of the people of Brighton & Hove, through the development of improved and integrated health and social care services.
3. In support of the foregoing, to advise the Council, the SPCT Board and the CC Group in relation to the following matters:-
  - (a) Providing city-wide strategic leadership to public health, health and adults and children’s social care commissioning, acting as a focal point for determining and agreeing health and wellbeing outcomes and resolving any related conflicts;
  - (b) Making ready for its future role of preparing and publishing the Joint Strategic Needs Assessment (JSN Assessment) for the City;
  - (c) Preparing and publishing a Joint Health & Wellbeing Strategy (JHW Strategy), monitoring the outcomes goals set out in the JHW Strategy and using its authority to ensure that the public health, health and adults and children’s commissioning and delivery plans of member organisations accurately reflect the Strategy and are integrated across the City;
  - (d) Receiving the annual CC Group’s commissioning plan for comment.

- (e) Supporting joint commissioning and pooled budget arrangements where agreed by the H&W Board that this is appropriate;
- (f) Promoting integration and joint working in health and social care across the locality;
- (g) Establishing and maintaining a dialogue with the Council's Local Strategic Partnership Board, including consulting on its proposed strategies and reporting on outcomes in line with the City's Performance and Risk Management Framework.
- (h) Involving stakeholders, users and the public in quality of life issues and health and wellbeing choices, by
  - communicating and explaining the JHW Strategy;
  - developing and implementing a Communications and Engagement Strategy;
- (i) Representing Brighton & Hove on health and wellbeing issues at all levels, influencing and negotiating on behalf of the members of the Board and working closely with the LINKs/local HealthWatch;
- (j) Ensuring robust arrangements are in place for a smooth transition into the statutory H&W Board by April 2013.

## OVERVIEW AND SCRUTINY COMMITTEES

### Explanatory Note

The terms of reference for the following Committees and Panels

- Overview & Scrutiny Commission
- Health & Wellbeing Overview & Scrutiny Committee
- Scrutiny Review Panels
- Policy Review Panels

are set out in **Part 5** of the Constitution: Terms of Reference and Procedure Rules for Overview & Scrutiny.

## TERMS OF REFERENCE OF JOINT COMMITTEES

### POLICE AND CRIME PANEL

#### Explanatory Note

This Panel is a statutory Joint Committee of Sussex Authorities, responsible for scrutinising the work of the elected Police and Crime Commissioner for Sussex (PCC). Whilst the Panel is there to challenge the PCC, it must also exercise its functions with a view to supporting the effective exercise of the PCC's functions.

The Council appoints one of its Councillors to the Panel. The Panel comprises 15 Councillor (one from each of the 15 Sussex local authorities) and 2 statutory co-optees who must not be Councillors. With the consent of the Secretary of State, the Panel may appoint up to 3 additional co-optees as the total membership of the Panel must not exceed 20.

The Panel is in the process of being constituted by West Sussex County Council (acting as lead authority) and will be operational no later than October 2012 in time for the election of the PCC in November 2012.

#### Functions (summarised from the Police Reform and Social Responsibility Act 2011)

To exercise the following functions:-

- a. \*The duty to review the PCC's draft Police & Crime Plan and to report / make recommendations to the PCC.
- b. \*The duty to review the PCC's Annual Report at a public meeting, which the PCC must attend, and to report / make recommendations to the PCC.
- c. \*The duty to review, hold confirmation hearings and report / make recommendations to the PCC on the proposed appointment of PCC's Chief Executive, Chief Finance Officer and Deputy PCC.
- d. \*The duty to review and report / make recommendations on the PCC's proposed precept, which includes a power of veto by a two-thirds majority of the total Panel membership.
- e. The duty to review, hold confirmation hearings and report / make recommendations to the PCC on the proposed appointment by the PCC of a Chief Constable, which includes a power of veto by a two-thirds majority of the total Panel membership.
- f. The duty to scrutinise and make recommendations to the PCC on any proposal by PCC to call for the retirement or resignation of the Chief Constable, including a power to ask Her Majesty's Inspector's of Constabulary for a professional view.

- g. The power to suspend the PCC if charged with an offence carrying a maximum prison term exceeding 2 years.
- h. The duty to appoint an acting PCC where the PCC vacates the post, is incapacitated, or has been suspended.
- i. The duty to operate an informal complaints resolution procedure for complaints about a PCC, except serious complaints matters which must be passed to the Independent Police Complaints Commission.
- j. A general duty to review or scrutinise other decisions / actions of the PCC and make reports / recommendations to the PCC.
- k. The power to require relevant reports and information in the PCC's possession (except those which are operationally sensitive) to enable the Panel to fulfil its statutory obligations.
- l. The power to require the PCC to attend the Panel to answer questions.
- m. The power to delegate any of its functions (except designated "special functions" marked \* above) to such sub-committee(s) as it thinks fit.

## **TERMS OF REFERENCE FOR ADVISORY GROUPS AND FORUMS**

### **ARTS AND CREATIVE INDUSTRIES COMMISSION**

#### **Purpose**

- 1.1 The purpose of the Commission is to support, promote and develop the arts and creative industries in Brighton & Hove.

#### **Objectives and Terms of Reference**

- 2.1 To improve the profile and economic potential of the city's artists and creative organisations.
- 2.2 To oversee policy development in the area of arts and creative industries and contribute to other relevant policy development in the city.
- 2.3 To inform and act as a resource for the Council representing the city's cultural sector.
- 2.4 To promote innovative thinking, best practice and joint working in the sector.
- 2.5 To represent and advocate for the city's arts and creative industries sector in a regional or national capacity as required.

#### **Reporting**

- 3.1 The Commission has a place on the Local Strategic Partnership and responsibilities delegated from that Partnership.
- 3.2 The Commission reports to the Economic Development and Culture Committees on an annual basis.
- 3.3 The Commission operates in an advisory capacity and does not have decision-making powers.

#### **Membership**

- 4.1 The Commission consists of up to 30 members including representatives from across the arts and creative industries, business, tourism, heritage, education sectors and the local authority appointed by the Executive Sub Group of the Commission which has responsibility for membership.
- 4.2 The Chair of the Commission is appointed by the Chief Executive after consultation with the Leaders of the political groups in the Council.
- 4.3 Six of the members of the Commission are Councillors appointed by the Council.

- 4.4 The membership of the commission is reviewed annually by the Executive Sub Group of the Commission.

**Review**

- 5.1 The work of the Commission will be reviewed annually by the Economic Development and Culture Committee.



## **CITY SUSTAINABILITY PARTNERSHIP**

### **1. Purpose**

- 1.1 The City Sustainable Partnership (“the Partnership”) is an independent, cross sector, strategic partnership, feeding into the family of partnerships on the Local Strategic Partnership (“LSP”).
- 1.2 The purpose of the Partnership is to provide the City and its key stakeholders with strategic leadership on the sustainable development of Brighton & Hove.

### **2. Objectives and Terms of Reference**

- 2.1 To lead on the revision and implementation, monitoring and review of both a Sustainability Strategy and a Climate Change Strategy for the City through the LSP.
- 2.2 To direct the performance of key city stakeholders against the environmental sustainability indicators in the new National Indicator set.
- 2.3 To direct work on the Environmental Sustainability indicators in the Local Area Agreement, for example, the proposed indicator for reducing CO2 emissions in the local authority area.
- 2.4 To monitor the sustainability performance of the Sustainable Community Strategy and direct changes in policies and practices of key stakeholders to improve this.
- 2.5 To champion the priorities locally of the national Sustainable Development Strategy: Securing the Future, namely:
  - i. Sustainable Consumption and Production (achieving more with less, considering the impact of products and materials across a whole life cycle);
  - ii. Climate Change and Energy (the urgent need to reduce CO2 emissions and adapt to the impacts of climate change);
  - iii. Natural Resource Protection and Environmental Enhancement;
  - iv. Sustainable Communities (using engagement and partnership to reduce poverty and environmental degradation).
- 2.6 To develop good and innovative practice sharing and joint work in these areas across the community and voluntary, business and public service sectors in the city.
- 2.7 To fulfil the role of the panel of representatives of local people as set out in the Sustainable Communities Act 2007 i.e. the body with which the City Council consults and seeks agreement on proposals to government to improve the sustainability of local communities.

### **3. Reporting**

- 3.1 The Partnership reports to the Council's Policy and Resources Committee in relation to the Sustainable Community Strategy and to the Environment and Sustainability Committee in relation to that committee's role as the Council's sustainability co-ordinator.
- 3.2 The Partnership may also report to the Local Strategic Partnership and other bodies or Council Committees as appropriate.
- 3.3 The Commission operates in an advisory capacity and does not have decision-making powers.

### **4. Membership**

- 4.1 The Partnership comprises 4 Councillors and representatives drawn from (a) the public services, (b) business, (c) the community and voluntary sector and (d) national agencies,
- 4.2 There is no requirement for the Chair or Vice-Chair to be a Councillor.
- 4.3 The membership of the Partnership is subject to review by the Council's Policy and Resources Committee.

### **5. Review**

- 5.1 The work of the Partnership is subject to review by the Policy and Resources Committee.

## INDEPENDENT REMUNERATION PANEL

### 1. Purpose

- 1.1 The principal duties of the statutory Independent Remuneration Panel ("the Panel"), are (a) to advise the Council on its scheme of allowances to be paid to Councillors ("Members") and co-optees to the Council and (b) to advise Rottingdean Parish Council on its scheme of allowances for Parish Council members.

### 2. Objectives and Terms of Reference

- 2.1 The functions of the Panel are as set out in Regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003, namely to produce a report in relation to Members of the Council making recommendations:
- (a) as to the amount of basic allowance which should be payable to Members;
  - (b) as to the duties in respect of which such Members should receive a special responsibility allowance and as to the amount of such allowance;
  - (c) as to whether the allowance scheme should include allowances in respect of the expenses of arranging for the care of children or dependants of such Members and the amount of such allowances;
  - (d) as to the responsibilities or duties in respect of which a travel and subsistence allowance should be available;
  - (e) as to the responsibilities or duties in respect of which a co-optees' allowance should be available;
  - (f) as to whether payment of allowances may be backdated in accordance with regulation 10(6) in the event of the scheme being amended at any time;
  - (g) as to whether adjustments to the level of allowances may be determined according to an index and, if so, which index and how long that index should apply;
  - (h) as to which Members of an authority are to be entitled to pensions in accordance with a scheme made under section 7 of the Superannuation Act 1972;
  - (i) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable;

- (j) as to whether any allowances to Members should be withheld in the event of the Member concerned being suspended or partially suspended.

2.2 Where the Independent Remuneration Panel exercises its functions in relation to the Parish Council within the authority's area, its functions are as set out in Regulation 28 of the Local Authorities (Members' Allowances) (England) Regulations 2003, namely to produce a report in relation to members of the Parish Council making recommendations:

- (a) as to the amount of parish basic allowance which should be payable to Parish Council members;
- (b) the amount of travelling and subsistence allowance payable to members of such authorities;
- (c) as to whether parish basic allowance should be payable only to the chair of the Parish Council or to all of its members;
- (d) as to whether, if parish basic allowance should be payable to both the chair and the other members of any such authority, the allowance payable to the chair should be set at a level higher than that payable to the other members and, if so, the higher amount so payable;
- (e) as to the responsibilities or duties in respect of which members should receive parish travelling and subsistence allowance.

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2.3 In addition to the functions under 2.1 and 2.2 above, the Panel may, if requested to do so by the Monitoring Officer, consider the expenses allowances paid to the Mayor and Deputy Mayor under Sections 3 and 5 of the Local Government Act 1972.

### 3. Reporting

3.1 The Panel reports through Policy and Resources Committee to the full Council.

### 4. Membership

4.1 The Panel consists of between three and five members, appointed by the Monitoring Officer after consultation with the Chief Executive. Any person who is a Councillor, or otherwise a co-optee of the Council, or is disqualified from being a Councillor is not eligible for appointment.

4.2 Members of the Panel are appointed for an initial term of three years. The Council may, at its discretion, extend this period. The Council or the member of the Panel may determine the appointment by giving one month's notice.

4.3 The Panel is chaired by a person appointed by the Panel from its members.

- 4.4 The Panel meets on such dates and at such times as the Panel may determine, having regard to the advice from the Monitoring Officer.
- 4.5 The quorum for meetings of the Panel is at least 50% of the members of the Panel.

**5. Review**

- 5.1 The arrangements for the Panel are principally statutory, but otherwise are subject to review by the full Council, through the Policy and Resources Committee.

## **COMMUNITY SAFETY FORUM**

### **1. Purpose**

- 1.1 The Community Safety Forum (“the Forum”) brings together local agencies with the aims of reducing crime and disorder and improving safety and quality of life in Brighton & Hove.

### **2. Objectives and Terms of Reference**

- 2.1 The purpose of the Forum includes the following functions:-

- Providing a place where key voluntary, independent and statutory agencies who play a significant role in the City in reducing crime and disorder and improving safety and quality of life, can work together, and develop their shared expertise and good practice;
- Involving Councillors in that process and ensuring that key decisions which affect the Council as a whole are referred to the Policy and Resources Committee or other appropriate Committee for consideration;
- Enabling consultation between residents, the Police Authority and police and overseeing consultation arrangements which are required to take place every three years to develop the priorities for inclusion within the Community Safety and Crime Reduction Strategy;
- Profiling the work of the Crime and Disorder Reduction Partnership in order to assist in reducing crime and fear of crime.

- 2.2 The Forum also has these terms of reference:-

1. To be the forum for the Crime and Disorder Reduction Partnership and enable the constituent members to jointly develop best practice to reduce crime and disorder and improve community and public safety in accordance with the Crime and Disorder Act 1998;
2. To support constituent members in their delivery of initiatives to reduce crime and improve community safety;
3. To fulfil the requirements for consultation in relation to matters to and from the Police Authority for the purposes of section 96 of the Police Act 1996.
4. To receive reports from the Police Authority, in particular the reports of their regular meetings and subject specific meetings;
5. To receive reports from the meetings of the Fire Authority for the purposes of information and to enable discussion and feedback on

those items which affect the partners in the Forum and the Crime and Disorder Reduction Partnership;

6. To receive and consider the Crime and Disorder Audit (every three years) and to make recommendations on its findings for the purpose of identifying priorities for action;
7. To oversee consultation arrangements with local communities and communities of interest, with a view to being satisfied that consultation is inclusive, enables wide participation and that community priorities are reflected in the identification of priorities within (a) the Community Safety and Crime Reduction Strategies and (b) work programmes of the Crime and Disorder Reduction Partnership. To agree the detailed arrangements with the Police Authority;
8. To approve the crime and safety priorities identified for action in the three year Strategy and the action plans which set out the work which will be implemented over the three years to achieve those priorities;
9. To regularly receive information about the implementation and progress of the Community Safety and Crime Reduction Strategy;
10. To contribute to the development of the Youth Justice Plan and to receive reports from the Youth Offending Team about the delivery of the Plan and progress against national and local performance measures;
11. To make recommendations to the Policy and Resources Committee, in relation to matters that require council decisions and where there are links with other strategic priorities of the Council;
12. To have regard to any protocol agreed by Full Council as to the working arrangements between the Forum and the overview and scrutiny committee that is designated the Council's statutory Crime and Disorder Committee;
13. To publicise the work of the Forum and of the Crime and Disorder Reduction Partnership in order to help reduce crime and fear of crime and improve safety.

### **3. Reporting**

- 3.1 The Forum reports principally to the Council's Policy and Resources Committee.
- 3.2 The Forum may also report to other bodies or Council Committees as appropriate.
- 3.3 The Forum operates in an advisory capacity and does not have decision-making powers.

#### **4. Membership**

- 4.1 Membership of the Forum is determined by the Policy & Resources Committee following advice from the Overview & Scrutiny Commission and is drawn from the Council, the police and the local community.
- 4.2 The places allocated to Councillors on the Forum include (a) the Chair of Policy and Resources Committee and (b) the Chair of the overview and scrutiny committee which is designated as the Council's statutory Crime & Disorder Committee.
- 4.3 The Forum is chaired by a Councillor.

#### **5. Review**

- 5.2 The work of the Forum is subject to review by the Policy and Resources Committee.



## **CITY SPORTS FORUM**

### **1. Purpose**

1.1 The purpose of the Brighton & Hove City Sports Forum (“the Forum”) is:

1. to represent the wide and diverse voice of sport within the city;
2. to consider annually the outcome and success of the Strategy against its agreed Action Plan;
3. to promote the city’s sporting needs and interests in Brighton & Hove, regionally and nationally;
4. to advise the Council on developments within Sport and active recreation.

### **2. Objectives and Terms of Reference**

2.1 The objectives and terms of reference of the Forum are:-

1. To take an overview of delivery of the Sports Strategy for Brighton & Hove.
2. To provide support for partnership working across all providers of sport and active participation.
3. To ensure examples of good practice are shared and the benefits extended to other sports and sport providers.
4. To identify and establish where appropriate short-term ‘project groups’ to focus on Government and Sport England initiatives that would benefit sport in Brighton & Hove, subject to the agreement of the Head of Tourism & Leisure.
5. To ensure that the sporting community of Brighton & Hove and the city of Brighton & Hove maximises the opportunities created by the 2012 London Olympics and Para-Olympics.
6. To advise the Economic Development & Culture Committee on sports related matters from time to time.

### **3. Reporting**

3.1 The Forum reports principally to the Council's Economic Development & Culture Committee.

3.2 The Forum may also report to other bodies or Council Committees as appropriate.

#### **4. Membership**

4.1 Invitations to the Sports Forum are to be extended to 40 representatives by the Head of Tourism & Leisure after consultation with the Economic Development & Culture Committee, from across the following groups:

- 4 Councillors
- Voluntary Sports Sector
- Public and private providers of sport and active recreation
- County and regional sports organisations
- Education, skills training, health and community safety

Sports with large numbers of playing teams or affiliated clubs will be represented through their relevant league, district or county association.

4.2 The Forum is to be supported by officers from across the Tourism & Leisure and City Infrastructure Delivery Units:-  
Head of Tourism & Leisure  
Head of City Infrastructure  
Commissioner, Sports & Leisure  
Sport & Physical Activity Manager  
Members of the Sports Development Team and Active for Life project.

Additional support from colleagues across the Council is identified as appropriate.

4.3 The Chair of the Forum for the first 12 months is the Chief Executive of the Council and thereafter is appointed annually by the Chief Executive following nomination by the Forum. No person is to hold the Chair for more than 3 consecutive years.

4.4 The membership of the Forum is subject to review by the Policy and Resources Committee.

#### **5. Review**

5.1 The work of the Forum is subject to bi-annual review by the Policy and Resources Committee.

## **CONSERVATION ADVISORY GROUP**

### **1. Purpose**

- 1.1 The purpose of the Conservation Advisory Group (“the Group”) is generally to act as a reference group to advise the Council on the implementation of the Conservation Strategy, on major planning applications or Council proposals affecting Conservation areas, Listed Buildings and on the development of policies for the protection of the historic built environment.

### **2. Objectives and Terms of Reference**

- 2.1 To promote the objectives of conservation and to facilitate communication between the public and the Council on matters of conservation, historic buildings and archaeology.
- 2.2 To encourage the conservation and improvement of conservation areas, buildings of architectural or historic interest, other areas of historical interest and areas of archaeological interest within the city.
- 2.3 To submit to the Council suggestions for action which will preserve or enhance the character or appearance of Conservation Areas within Brighton and Hove and to encourage societies and individuals voluntarily to enhance their local environment.
- 2.4 To act as a source of advice on major planning applications and other proposals, including traffic calming or pedestrianisation proposals, that could affect the character of conservation areas, buildings of architectural or historic interest or historic parks and gardens.
- 2.5 To assist in the development and formulation of policies to enhance and protect conservation areas and buildings of architectural or historic interest in Brighton & Hove.
- 2.6 To report unauthorised work and conditions of planning permissions that have not been complied with.

### **3. Reporting**

- 3.1 The Group principally reports to the Planning Committee. However, the interests of the Group are relevant to a range of Council activities and other Committees may request reports from the Group, when there is a need for input from a conservation perspective.
- 3.2 The minutes of the meeting record an agreed form of words that is reported as the comment of the Group. So far as is practical the Chair approves the minutes within 5 working days of the meeting or the production of the minutes.

## 4. Membership

### 4.1 Considerations for appointment to the Group:

- (a) The Group aims for a broad, locally based membership, to ensure that the Council is able to effectively disseminate and collect local conservation information;
- (b) The Group's criteria in relation to local groups and societies, are for membership to be drawn from representative organisations only, which are open to all residents or traders in an area without any selection criteria. Each organisation should hold regular meetings and an annual meeting at which officers of the organisation are democratically elected. Member groups or societies should (i) submit an annual report and the minutes of their AGM, (ii) have as one of their stated or implied aims the conservation of the historic fabric or archaeological interest of their area and (iii) as far as possible represent the whole (or a large proportion) of one of the designated conservation areas of Brighton and Hove;
- (c) Membership is open to English Heritage;
- (d) Membership is open to representatives of Sussex Enterprise or other business or commercial organisations in Brighton and Hove (particularly those that have a significant presence in historic areas);
- (e) Membership is open to nominees from the national amenity societies (such as the National Trust, Victorian Society or Society for the Preservation of Ancient Buildings (SPAB));
- (f) Membership is open to nominees of the Royal Institute of British Architects (RIBA) the Royal Institute of Chartered Surveyors (RICS), the Institute of Historic Building Conservation (IHBC) the Royal Institute of Structural Engineers and the Royal Town Planning Institute (RTPI).

### 4.2 Other constitutional matters

- (a) The Group is entirely advisory and does not have executive powers;
- (b) The secretariat of the Group is provided by the Council;
- (c) Agendas are produced by officers of the Council in consultation with the Chair;
- (d) The Chair is elected from the membership annually;
- (e) There is an Annual Meeting of the Group in May of each year at which the Chair and Vice Chair are elected;
- (f) The Group may establish sub-groups as required;

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- (g) The Group shall advise the Council on nominations for new members of the Group;
- (h) Any sub-groups, nominee (or substitute) representing the Group at Council meetings shall be elected by a vote at a full meeting of the Group;
- (i) The membership of the Group is subject to review by the Council's Policy and Resources Committee.

**5 Review**

- 5.1 The terms of reference of the Group are subject to review by the Policy and Resources Committee.

## **HOUSING AREA PANELS (X 4)**

### **1. Purpose**

1.1 The role of each of the Council's four Housing Area Panels is to advise the Council in its landlord role as local housing authority, with particular attention to anything affecting the area concerned.

### **2. Objectives and Terms of Reference**

2.1 To consider reports relating to the Council's role as landlord, including performance, services, budgets, major repairs programme development and delivery, policy issues and service development, within the boundaries of the Area Panel and to make recommendations to the Housing Management Consultative Sub-Committee.

### **3. Reporting**

3.1 The Panels usually report to the Housing Management Consultative Sub-Committee, but if necessary their reports may be referred directly to the Housing Committee.

### **4. Membership**

4.1 Each Panel comprises all ward councillors within the boundaries of the Panel, together with tenant and resident association representatives.

### **5. Review**

5.1 The terms of reference of the Panels are subject to review by the Policy and Resources Committee.

## **JOINT STAFF CONSULTATIVE FORUM**

### **1. Purpose**

1.1 The Joint Staff Consultative Forum ("the Forum") facilitates dialogue between the Council as employer and the Council's employees.

### **2. Objectives and Terms of Reference**

2.1 The role of the Forum is to provide a mechanism for regular communication and consultation (a) in support of the Council's approach to working in partnership with its recognised trade unions and professional associations and (b) to maintain a healthy employee relations climate.

### **3. Reporting**

3.1 Matters raised may become the subject of reports to Committee as appropriate.

### **4. Membership**

4.1 The Forum comprises 6 Councillors and employee representatives.

### **5. Review**

5.1 The terms of reference of the Forum are subject to review by the Policy and Resources Committee.

## **PART 5 - OVERVIEW AND SCRUTINY TERMS OF REFERENCE AND PROCEDURE RULES**

### **1. The number and arrangements for Overview and Scrutiny Committees**

- 1.1 The Council will appoint an Overview and Scrutiny Committee and a Health & Wellbeing Overview and Scrutiny Committee.
- 1.2 The Overview and Scrutiny Committee will primarily be a commissioning body, co-ordinating the Overview and Scrutiny work programme through the establishment of time limited Scrutiny Review and Policy Review Panels. The Overview and Scrutiny Committee will also undertake limited direct scrutiny of services relating to Place, Communities, Resources and Finance.
- 1.3 The Health & Wellbeing Overview and Scrutiny Committee will perform the overview and scrutiny function in relation to the health service pursuant to the National Health Service Act 2006 and associated Regulations. It will also have a remit to scrutinise social care and education issues relating to both adults and children.

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

#### **2.1 Overview and Scrutiny Committee**

- 2.1.1 To co-ordinate the work of Overview and Scrutiny as set out under "Functions" below.
- 2.1.2 To be the designated Crime and Disorder Committee as required under the Police and Justice Act 2006.
- 2.1.3 To undertake the scrutiny of flood and coastal erosion plans as required by the Localism Act 2011.
- 2.1.4 To review and scrutinise matters, decisions and service provision relating to the following Council functions and services:-
- Resources and Finance;
  - Place;
  - Communities.
- (The full list of functions under each area is set out in Part 6 of this Constitution under the Scheme of Officer Delegations).
- 2.1.5 To commission time-limited 'task and finish style' Scrutiny Review Panels and Policy Review Panels to:
- Scrutinise specific issues of concern (Section 4 below)
  - Undertake policy review and development work (Section 5 below)
- 2.1.6 To review and scrutinise any other Council function not otherwise addressed by any other Overview and Scrutiny Committee.

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## **2.2 The Health and Wellbeing Overview and Scrutiny Committee**

2.2.1 To exercise powers with regard to the scrutiny of health services pursuant to the National Health Service Act 2006 and in particular:-

- To scrutinise matters relating to the health of the Authority's population and contribute to the development of policy and service to improve health and reduce health inequalities;
- To scrutinise matters relating to public health;
- To undertake all the statutory functions of the health scrutiny committee in accordance with the National Health Service Act 2006;
- To review and scrutinise the impact of the Authority's own services and of key partnerships on the health of its population;
- To encourage the Council as a whole to take into account the implications of their policies and activities on health and health inequalities;
- To make reports and recommendations to the National Health Service, the Council, the committees and sub-committees, and to other relevant bodies and individuals;
- To monitor and review the outcomes of its recommendations.

In all of the above, to liaise with other bodies that represent patients' views in order to seek and take account of the views of the local populations

2.2.2 To perform the Overview and Scrutiny function in relation to all matters, decisions and service provision connecting to Adult Social Care.

2.2.3 To perform the Overview and Scrutiny function in relation to all matters, decisions and service provision connecting to Children and Young People and in particular:

- the provision, planning and management of children's social services
- the provision, planning and management of education
- the health of the authority's children and young people, including contribution to the development of policy and service to improve health and reduce health inequalities, all in accordance with the principles of section 244 National Health Services Act 2006
- all of the functions of the Council as an education authority

2.2.4 To establish time-limited Scrutiny Review and Policy Review Panels in relation to its terms of reference to:

- Scrutinise specific issues (Section 4)
- Undertake policy development work for council committees (Section 5)

### **3. Functions of Overview and Scrutiny Committees**

- 3.1 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee will:
- a) Approve an overview and scrutiny work programme, to ensure that there is efficient use of scrutiny resources and that the potential for duplication of effort is minimised;
  - b) Receive requests from Councillors and partner organisations, and suggestions from officers of the council, for particular topics to be scrutinised and determine the appropriate action;
  - c) Receive requests for particular pieces of policy work to be undertaken and determine the appropriate action;
  - d) Have the power to call-in and review policy committee decisions, or key decisions made by an officer with delegated authority, as set out in the procedures in these Rules;
  - e) Undertake initial explorations on requests/proposals for panel reviews and recommend appropriate action;
  - f) Receive proposals for the appointment of task-orientated, time limited scrutiny and policy review panels to review in-depth, investigate and report on a particular topic;
  - g) Co-ordinate training and development arrangements for Overview and Scrutiny Committee members and co-optees;
  - h) Identify good practice in relation to the overview and scrutiny role and develop common practices for all committees that reflect good practice;
  - i) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies;
  - j) Establish and maintain constructive working relationships with the Policy Committees;
  - k) Help ensure positive working relationships with partnerships and external bodies;
  - l) Monitor and review the outcomes of its recommendations.
  - m) Promote the work of scrutiny, including through the local media;
  - n) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;

- o) Ensure that the communities of Brighton & Hove and specific users of services are able to be involved in and inform the work of the committees;

#### **4. Scrutiny Review Panels**

- 4.1 The Overview and Scrutiny Committee and the Health & Wellbeing Overview and Scrutiny Committee may appoint Scrutiny Review Panels to carry out short, sharply focused pieces of scrutiny work. Scrutiny Review Panels investigate areas of concern and the available options. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.
- 4.2 Scrutiny Review Panels will not have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply, but they will normally be established on a cross-party basis.
- 4.3 Membership of the Scrutiny Review Panels will be sought from the political groups, taking into account the expertise and experience of available Members, and that no Member may be involved in scrutinising a decision in which he/she has been involved.
- 4.4 There should not normally be provision for substitute Members to attend meetings of Scrutiny Review Panels.
- 4.5 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee shall ensure that the number of Scrutiny Review Panels which it appoints does not exceed the capacity of the Member and Officer resources available to support their work.
- 4.6 In considering whether or not any matter should be agreed for a Scrutiny Review Panel, the Overview and Scrutiny Committees will have regard to:
  - The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues affecting the well being of the City or its communities;
  - Whether there is evidence that the decision-making rules in the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
  - The potential benefits of a review especially in terms of possible improvements to future procedures and/or the quality of Council services;
  - What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g.

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a letter to the relevant Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.);

- The proposed overview and scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests;
- The resources available to support the work as set out at paragraph 4.5 above.

## **5. Policy Review Panels**

- 5.1 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee may appoint Policy Review Panels to carry out short, sharply focused pieces of policy development work.
- 5.2 Policy Review Panels undertake in-depth policy review and development work. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.
- 5.3 Policy Review Panels will not have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply, but they will normally be established on a cross-party basis.
- 5.4 Membership of the Policy Panels will be sought from the political groups, initially from the membership of the parent policy committee, taking into account the expertise and experience of available Members.
- 5.5 There should not normally be provision for substitute Members to attend meetings of Policy Review Panels.
- 5.6 Each Overview and Scrutiny Committee shall ensure that the number of Policy Review Panels which it appoints does not exceed the capacity of the Member and Officer resources available to support their work.
- 5.7 In considering whether or not any matter should be agreed for a Policy Review Panel, the Overview and Scrutiny Committees will have regard to:
- The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues affecting the well being of the City or its communities;
  - The potential benefits of a review especially in terms of possible improvements to future policies and procedures and/or the quality of Council services;
  - The proposed overview and scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests;

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- The resources available to support the work as set out at paragraph 5.6 above.

## **6. Membership of Overview and Scrutiny Committees and Panels**

- 6.1 Any Councillor may sit on an overview and scrutiny committee or panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 6.2 The membership of the overview and scrutiny committees will reflect the political composition of the Council and be subject to section 15 of the Local Government and Housing Act 1989.

## **7. Co-optees**

- 7.2 The Health & Wellbeing Overview and Scrutiny Committee will include non voting co-opted members from the Older People's Council, the Youth Council and LINK/Healthwatch. It may also appoint voting Education Representatives where these are required by legislation.
- 7.3 The Overview and Scrutiny Committees may agree the appointment of non voting co-optees for each Policy or Scrutiny Review Panel. In appointing co-opted Members to review panels, regard will be given to both the expertise of the individual and the representative nature of the position.

## **8. Meetings of the Overview and Scrutiny Committees**

- 8.1 The Overview and Scrutiny Committee will meet on a quarterly basis. The Health & Wellbeing Overview and Scrutiny Committee will meet six times per annum. In addition, an extraordinary meeting may be called by the Chair or the Chief Executive at any time if they consider it necessary or desirable.
- 8.2 Scrutiny Review and Policy Review Panels shall meet as many times as necessary to successfully carry out their investigations, they shall however be time limited in nature.

## **9. Quorum**

- 9.1 The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the Council Procedure Rules in Part 3 of this Constitution.

## **10. Chairs of Overview and Scrutiny Committees/Panels**

- 10.1 The Council will appoint the Chair of Overview and Scrutiny Committees. The Chair of the Health & Wellbeing Overview and Scrutiny Committee shall also be a member of the Overview and Scrutiny Committee.
- 10.2 Each Overview and Scrutiny Committee will appoint the Chair of Scrutiny Review and Policy Review Panels it establishes.

- 10.3 If the Overview and Scrutiny Committee fails to appoint a Chair the Review Panel will make the appointment at its first meeting.
- 10.4 The Chair of the Overview and Scrutiny Committee shall be the lead scrutiny Member.

## **11. Work programme**

- 11.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme.
- 11.2 The Health & Welbeing Overview and Scrutiny Committee will be responsible for setting its own work programme.
- 11.3 The Chairs of the Scrutiny Committees will meet periodically on an informal basis to plan and co-ordinate the process of scrutiny.

## **12. Agenda items**

- 12.1 Agenda items shall be set by the Committee identifying issues which they wish to consider.
- 12.2 Any Member of the Council may notify the Head of Scrutiny that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting.

## **14. Submission of reports from Overview and Scrutiny**

- 14.1 Once it has formed recommendations on any matter, an Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive of the Council or relevant organisation for consideration at the relevant decision-making body.
- 14.2 If an Overview and Scrutiny Committee cannot agree on one single final report then up to one minority report may be prepared and submitted for consideration by the Policy Committee meeting with the majority report.
- 14.3 The Policy Committee shall consider the report within eight weeks of it being submitted to the Chief Executive or at its next scheduled meeting, whichever is the later, and shall prepare a response to the recommendations detailing whether each recommendation is agreed or not agreed.
- 14.4 The Chair of the Policy or Scrutiny Review Panel or relevant Overview and Scrutiny Committee shall be invited to the Committee meeting at which the report is considered.
- 14.5 For Scrutiny and Policy Review Panel reports, the report, together with the Policy Committee response, shall be reported to full Council for information.

## **15. Annual report**

- 15.1 The Overview and Scrutiny Committee will report annually to full Council on the work of scrutiny and make recommendations for future work programmes and amended working methods if appropriate.

## **16 Distribution of reports by the Overview and Scrutiny Committee when exercising the functions of the Crime and Disorder Committee**

- 16.1 Where the Crime and Disorder Committee makes a report or recommendations to the Council with respect to the discharge by the responsible authorities\* of their crime and disorder functions, it shall provide a copy to –
- (a) each of the responsible authorities, and
  - (b) each of the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under the relevant legislation.

[\* 'Responsible authorities' are defined in the relevant legislation.]

- 16.2 Where the Crime and Disorder Committee makes a report or recommendation to the Council with respect to any local crime and disorder matter referred to it by a Member, it must –
- (a) provide a copy of the report or recommendations to that Member, and
  - (b) provide a copy of the report or recommendations to such of –
    - (i) the responsible authorities, and
    - (ii) the co-operating persons and bodiesas it thinks appropriate.

## **17. Councillor Call for Action**

- 17.1 The “Councillor Call for Action” (CCfA) as set out in Section 119 of the Local Government and Public Involvement in Health Act 2007 and amended by the Localism Act 2011 enables any member of the council to refer to an overview and scrutiny committee any local issue which directly affects their ward.
- 17.2 The CCfA is an additional means for Councillors, as community leaders, to raise issues of local community concern, for consideration by the Council’s overview and scrutiny function, on behalf of residents.
- 17.3 A CCfA should only be raised where other means of resolving the matter have been exhausted. Any Member of the Council may raise a CCfA, which should be sent to the Head of Scrutiny. In seeking to raise a CCfA a Councillor needs to:
- State why they consider the issue should be looked at by the Overview and Scrutiny Committee;
  - Give a brief synopsis of what the main areas of concern are;
  - Supply evidence in support of the CCfA;
  - Indicate areas or groups affected by the CCfA;
  - Summarise mediation and attempts at resolution undertaken;

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- Indicate deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.
- 17.4 Upon receipt of a CCfA, the relevant Overview and Scrutiny Committee will use the following criteria to decide whether or not to take the matter further:
- Is the committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
  - Has the committee considered a similar issue recently – if yes, have the circumstances or evidence changed?
  - Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing.
  - Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
  - Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?
  - Is the matter an excluded matter, as set out in paragraph 16.12 of these rules?
- 17.5 In considering the CCfA, the Overview and Scrutiny Committee will invite the relevant Members and officers to discuss the issue with the Overview and Scrutiny Committee and answer any questions, if the committee considers this relevant.
- 17.6 If the committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons. If the committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme.
- 17.7 Overview and Scrutiny Committees in considering a CCfA may undertake any of the activities as outlined in the Overview and Scrutiny Procedure Rules.
- 17.8 The power to refer a matter is available only where the matter is of direct concern to the ward which the Councillor represents. A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for Councillors in multi-member wards to agree – any of them may refer a matter.
- 17.9 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

- 17.10 The following matters are excluded from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.
  - Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
    - Planning and licensing applications and appeals
    - Council Tax/Housing Benefits complaints and queries
    - Issues currently under dispute in a court of law
  - Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of an Overview and Scrutiny Committee or any of its Panels.

## **18. Call-in**

- 18.1 Call-in is a process by which Overview and Scrutiny Committees can recommend that a decision made by a Policy Committee but not yet implemented be reconsidered by the body which made the decision, or recommend that the full Council consider whether that body should reconsider the decision.
- 18.2 Call-in does not provide for the Overview and Scrutiny Committee or the full Council to substitute its own decision, but merely to refer the matter back to the decision-maker. A decision maker can only be asked to reconsider any particular decision once.
- 18.3 Call-in should only be used in very exceptional circumstances – for example where Members have evidence that a decision was not taken in accordance with Article 11 of the constitution. Day to day management and operational decisions taken by officers may not be called-in.
- 18.4 Any decision made by Policy Committee, or a key decision made by an officer under delegated powers shall be published by means of a notice at the main offices of the Council and where possible by electronic means, normally within 2 working days of being made. All Members will be sent, if possible by electronic means, copies of all such decision notices at the time of publication.
- 18.5 Any decision made by the Policy Committee, or a key decision made by an officer under delegated powers may be called in up to five working days from the date of the meeting at which the decision was taken.
- 18.6 During this period, any five Members of the Council, from a minimum of two political groups may request that a decision be called-in for Scrutiny by the relevant Overview and Scrutiny Committee.
- 18.7 Such a request shall be made in writing to the Chief Executive and shall include the reason(s) for the request and any alternative decision proposed. The Chief Executive may refuse to accept a request which in his/her opinion is frivolous, vexatious or defamatory, or where no reason is given.

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- 18.8 If the Chief Executive accepts the request he/she shall call-in the decision. This shall have the effect of suspending the decision coming in force and the Chief Executive shall inform the decision maker e.g. Committee Members, or officer and the relevant Chief Officer(s) of the call-in. The Chief Executive shall then call a meeting of the relevant Overview and Scrutiny Committee as appropriate to scrutinise the decision, where possible after consultation with the relevant Chair, and in any case within 7 working days of accepting the call-in request, unless a meeting of the appropriate Committee is already scheduled to take place within this period.
- 18.9 In deciding whether or not to refer a decision back, the relevant Overview and Scrutiny Committee shall have regard to:
- any further information which may have become available since the decision was made
  - the implications of any delay; and
  - whether reconsideration is likely to result in a different decision.
  - The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities,
  - Whether there is evidence that the decision-making rules in the constitution have been breached;
  - that the agreed consultation processes have not been followed;
  - or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
  - What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.)
- 18.10 If, having scrutinised the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If it considers the decision is contrary to the policy framework or budget agreed by the Council, the matter may be referred to the full Council to determine whether or not it should be referred back to the decision making body.
- 18.11 If the relevant Overview and Scrutiny Committee does not meet within 7 working days of the Chief Executive accepting a call-in request, or does meet but does not refer the matter back to the decision making body or to the Council, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of the period of 7 working days from the call-in request being accepted, whichever is the earlier.
- 18.12 If the decision is referred back to the decision making body, that body shall then reconsider, either at its next programmed meeting or at a special meeting called for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.

- 18.13 If the relevant Overview and Scrutiny Committee refers the matter to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making body, together with the Council's views on the decision. In this case the decision making body shall consider, either at its next programmed meeting or at a special meeting convened for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.
- 18.14 If the Council does not meet within two weeks of the matter being referred to it, or if it does meet but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of that two week period, whichever is the earlier.

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

- 19.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state if in the opinion of the decision making body the decision is an urgent one and subject to the agreement of the Chief Executive, or in his/her absence the officer acting for him, such a decision shall not be subject to call-in.
- 19.2 The Chief Executive or the Officer acting on his/her behalf shall consult the leaders of the Political Groups before agreeing to the exemption. Any decision to which the call-in process does not apply for reasons of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 19.3 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the Overview and Scrutiny Committee with proposals for review if necessary.

## **20. Call In and Joint Committees**

- 20.1 The principle of call in applies to decisions made by Joint Committees on which the Council is represented. The detailed arrangements relating to call in of Joint Committee decisions shall be agreed between the constituent authorities and included in the Constitution of the Joint Committee.

## **21. Matters excluded from Scrutiny**

- 21.1 Overview and Scrutiny Committees should not normally scrutinise individual decisions made in respect of development control, licensing, registration, consents and other permissions. In particular they are not an alternative to normal appeals procedures. However, they may

make reports and recommendations on such functions as part of wider scrutiny reviews.

- 21.2 The scrutiny process is not appropriate for issues involving individual complaints or cases, or for which a separate process already exists e.g. personnel/disciplinary matters, ethical matters or allegations of fraud.

## **PART 6 SCHEME OF DELEGATION TO OFFICERS**

### **PART 6.1 INTRODUCTION**

### **PART 6.2 PART A. GENERAL DELEGATIONS**

- 1. Administrative**
- 2. Financial**
- 3. Land Management**
- 4. Human Resources**
- 5. Surplus Property**
- 6. Appointment of Authorised Officers**
- 7. Urgency Powers**
- 8. Miscellaneous Matters**

### **PART 6.3 PART B. SPECIFIC DELEGATIONS**

#### **I DELEGATIONS TO CHIEF EXECUTIVE**

- 1. General**
- 2. Interpretation of Delegation Schemes**
- 3. Members**
- 4. Returning Officer**
- 5. Executive Office**

#### **II DELEGATIONS TO STRATEGIC DIRECTOR OF RESOURCES**

- 1. General**
- 2. Head of Legal and Democratic Services**
- 3. Human Resources**
- 4. Policy, Analysis and Performance**
- 5. Corporate Communications**
- 6. Property and Design**
- 7. ICT**
- 8. City Services**
  - (1) Local Taxation Services
  - (2) Housing Benefit and Council Tax Benefit
  - (3) Local Land Charges
  - (4) Registration Service
  - (5) Travel Concessions
  - (6) Electoral Registration and Elections
  
  - (7) Coroners Service
  - (8) Bereavement Services
  
  - (9) Appointment of Authorised Officers
  
  - (10) Access Services
- 9. Emergency Planning**

### **III DELEGATIONS TO DIRECTOR OF FINANCE**

- 1. General**
- 2. Strategic Finance, Financial Services, and Audit and Business Risk**
- 3. Procurement**

### **IV DELEGATIONS TO STRATEGIC DIRECTOR OF PEOPLE**

- 1. Introduction**
- 2. Director of Children's Services**
- 3. Section 75 Arrangements**
- 4. Education**
- 5. Children and Young People's Social Services**
- 6. Assistance to Pupils/Students**
- 7. Adult Learning**
- 8. Human Resources Functions**
- 9. Buildings/Premises**
- 10. Guardians ad Litem**
- 11. Miscellaneous**
- 12. Adult Social Care & Health**
- 13. Delegations to Lead Commissioner Adult Social Care and Health**
  - (1) Director of Adult Social Services
  - (2) General Adult Social Services
  - (3) Section 75 Arrangements
  - (4) Supported Employment

### **V DELEGATIONS TO STRATEGIC DIRECTOR OF PLACE**

- 1. Environmental Awareness**
- 2. National Parks**
- 3. Parks and Green Spaces**
- 4. Travellers and Gypsies**
- 5. Highways**
- 6. Traffic Management**
- 7. Parking Management**
- 8. Transport**
- 9. Waste Management and Control**
- 10. Land Use Planning**
- 11. Town and Country Planning**
- 12. Conservation and Design**
- 13. Management of Establishments**
- 14. Markets**
- 15. Building Control**
- 16. Miscellaneous**
  - (1) Coastal protection.
  - (2) Allotments and smallholdings.
  - (3) Numbering of housing and naming of streets.
- 17. Environmental Health**
- 18. Licensing and Registration**
- 19. Trading Standards**

- 20 Neighbourhood Renewal**
- 21. Economic Development and European Union**
  - (1) Economic Development and Regeneration
  - (2) European Union
- 22. Housing Related Support Services**
- 23. Housing**
  - (1) General
  - (2) Housing Revenue Account (H.R.A.) Properties
  - (3) Right to Buy
  - (4) Housing Strategy
  - (5) Homelessness and Allocations
  - (6) Housing Grants
  - (7) Standards of Housing
  - (8) Tenancy Relations
  - (9) Housing Advice
  - (10) Access to Personal Files
  - (11) Licensing and Registration of HMOs
  - (12) Power to issue Notices

**VI DELEGATIONS TO STRATEGIC DIRECTOR OF COMMUNITIES**

- 1. Tourism**
- 2. Arts and Creative Industries**
- 3. Management of Establishments**
- 4. Libraries**
- 5. Venues**
- 6. Archives**
- 7. Communities & Equality**
- 8. Seafront**
- 9. Community Safety and Drug Action Team**
- 10. Events**
- 11. Leisure**

**VII DELEGATIONS TO DIRECTOR OF PUBLIC HEALTH**

**DELEGATIONS TO HEADS OF DELIVERY UNITS**

**VIII DELEGATIONS TO HEAD OF CITY SERVICES**

**IX DELEGATIONS TO HEAD OF PLANNING AND PUBLIC PROTECTION**

**X DELEGATIONS TO HEAD OF TOURISM AND LEISURE**

**XI DELEGATIONS TO HEAD OF CITY INFRASTRUCTURE**

**XII DELEGATIONS TO HEAD OF HOUSING & SOCIAL INCLUSION**

**PART 6.4 PART C. REFERRED FUNCTIONS**



## **PART 6.5 SCHEDULES**

### **SCHEDULE 1**

#### **Part I**

Functions delegated to the Strategic Director of Place and Head of Planning & Public Protection

#### **Part II**

Legislative provisions under which notices may be served

### **SCHEDULE 2**

Licensing and Registration Functions delegated to the Strategic Director of Place and Head of Planning & Public Protection

### **SCHEDULE 3**

Trading Standards Functions delegated to the Strategic Director of Place and the Head of Planning & Public Protection

### **SCHEDULE 4, Parts 1 & II**

Functions delegated to the Strategic Director of Place and the Head of Planning & Public Protection in Relation to Planning

### **SCHEDULE 5**

Functions delegated to the Strategic Director of Place and the Head of Housing & Social Inclusion in respect of HRA properties

### **SCHEDULE 6**

Functions delegated to the Strategic Director of Resources and the Head of City Services in relation to Local Taxation

### **SCHEDULE 7**

Highways functions delegated to the Strategic Director of Place and the Head of City Infrastructure

## **PART 6.6 LIST OF STATUTORY AND PROPER OFFICERS**

## **PART 6.1 INTRODUCTION**

1. The delegations set out in parts A and B of this Scheme of Delegation shall be construed and applied in accordance with the following paragraphs.
2. The following expressions shall have the meanings assigned to them respectively:-

“Strategic Director” means any one of the Strategic Directors of People, Place, Communities or Resources and the Director of Finance or any of their successors including any person appointed to undertake the functions of the Strategic Director by whatever name called unless the context suggests otherwise.

“Strategic Leadership Board” means the Board consisting of the Chief Executive, Strategic Directors and the Director of Finance.

“Lead Commissioner” means an officer appointed to undertake commissioning on behalf of the Strategic Director.

“Head of Delivery Unit” means an officer appointed to exercise the Council's functions in respect of the delivery (as opposed to commissioning) of services in respect of specific functions.

“Commissioning” means the exercise of commissioning functions on behalf of a Strategic Director in accordance with the Commissioning Framework as agreed from time to time by the Strategic Leadership Board. This shall include, but is not limited to, the assessment of need, formulating of outcomes, monitoring and enforcement of performance targets, evaluation of outcomes and reporting to a relevant decision making body where necessary.

“Chief Officer” means any of the Strategic Directors, the Director of Finance and the Lead Commissioner for Adult Social Care and Health (in so far as it relates to his/her role as the Statutory Director of Adult Social Services).

3. The functions of the council specified in Part A of this Scheme are delegated to the Chief Executive, Strategic Directors and the Director of Finance in relation to their areas of responsibility. In so far as these relate to the delivery of services (as opposed to commissioning) the Heads of each Delivery Unit (except insofar as they relate to functions comprised in the Strategic Director for People and the Lead Commissioner for Adult Social Care and Health) shall have concurrent delegated functions with the relevant Strategic Director in relation to the services for which they are responsible.
4. The functions of the Council specified in Part B of this Scheme are delegated to the officer/s described therein. The Heads of Delivery Units referred to under Part B shall have concurrent delegated functions with their relevant Strategic Director in relation to the delivery of the functions set out under their title.

5. The exercise of functions under Part A or B by the Heads of Delivery Units shall be subject to the following:-
  - Any function delegated to the Head of a Delivery Unit may be exercised by the relevant Strategic Director.
  - The exercise of a function by the Head of a Delivery Unit is subject to any instructions or guidance that may be issued from the Chief Executive or the relevant Strategic Director.
  - The relevant Strategic Director may suspend the exercise of any function by the Head of a Delivery Unit.
  - The exercise of any functions by the Head of a Delivery Unit shall be subject to the outcome and other requirements stipulated as part of the commissioning decisions
- 6 Notwithstanding the provisions of paragraph 5 above, any failure to comply with any instructions or guidance or requirements imposed as part of the commissioning exercise shall not affect the validity of any decision or action taken by or on behalf of the Head of a Delivery Unit.
7. The functions delegated under this Scheme of Delegation shall be subject to the Council's standing orders, financial regulations, policies and procedures and to any instruction or guidance of the Council or the appropriate Committee or Sub-Committee acting under its delegated powers.
8. Except in relation to any statutory function vested directly in the officer concerned, each officer shall, in exercising his/her delegated functions, comply with any instructions of the Chief Executive. The Chief Executive is authorised to rule on any questions arising under this scheme including the extent to which any function is delegated.
- 9(a). Where a function is delegated to an officer, he/she may authorise the carrying out of that function, in his/her name, by other officers within his/her department, directorate, team, unit or section (or such other officers as report to him/her directly or indirectly) either fully or under the general supervision and control of the authorising officer. Without prejudice to the generality of the foregoing, such authorisation may include authorisation to issue and sign statutory notices in the name of the relevant officer or any other person with delegated functions.
- 9(b). Without prejudice to the generality of 9(a) above the power of Strategic Directors to authorise other officers to exercise their functions includes the power to authorise Lead Commissioners and officers reporting to Lead Commissioners to exercise such functions insofar as they relate to commissioning.
10. All such matters as may be regarded as included by inference shall be comprised within the delegated functions of officers; and any delegation to an officer shall include all consequential or ancillary matters as necessary. For example, where the exercise of a function has been delegated, it shall include, subject to any express reservations in this scheme, the power to serve notices or orders,

authorise agreements, authorise proceedings or fix or vary fees and charges.

11. The delegations in Parts A and B of this Scheme shall be complementary and any delegations to particular officers in Part B shall be without prejudice to the generality of the functions delegated in Part A. The functions delegated under this Scheme are in addition to and without prejudice to any powers or authorisations under other parts of the constitution.
12. Where a function is delegated to more than one officer, any one of those officers may exercise it, but such function shall be exercised in accordance with any direction given by the Chief Executive.
13. Where under this Scheme an officer is authorised to discharge a particular function, he/she shall not be precluded from placing the matter before the relevant Committee or Sub-Committee for consideration as the officer considers appropriate.
14. Any delegation of functions to an officer under this Scheme shall not prevent the Council or the relevant Committee from exercising those functions.
15. Without prejudice to the other provisions of this Scheme and, in particular, paragraphs 9(a) and 9(b) above, the officers named in Column 2 below may perform, in their own names, the functions (under Parts A and B of this Scheme) of the corresponding officers in Column 1 below where those officers are absent or otherwise unable to act.

Column 1	Column 2
Chief Executive	Any Strategic Director or member of the Strategic Leadership Board as the Chief Executive may determine.
Any Strategic Directors other than Resources and Director of Finance	Any Lead Commissioner or Head of Delivery Unit responsible for any functions comprised in the Strategic Director's delegations.
Strategic Director of Resources and Director of Finance	Any Head of a Resource or Finance Unit as the case may be as the Director/Strategic Director may determine.

16. In the event of (a) any change in the job title of any officer mentioned in this Scheme, (b) any change in any other title mentioned in this Scheme (for example of any Councillor, Committee, Sub-Committee, group, or team), and/or (c) the transfer of any of the responsibilities of any officer who has delegated functions under this Scheme, to any other officer, the Monitoring Officer may make consequential amendments to the Scheme to take account of the change and/or transfer.

17. In this Scheme a reference to any Act of Parliament shall be deemed to include a reference to any Act by which it is applied, extended, amended, consolidated or replaced. It shall also be deemed to refer to any statutory instruments, regulations, orders, byelaws or the like made or having effect as if made under such Act.
18. (a) Where an officer of any transferor authority ("former officer") was, before reorganisation day, specifically authorised to enter into a contract, prepare and execute a document or take any other action and that contract is not entered into, document not executed or, as the case may be, action not taken before reorganisation day, the officer of the Council holding the corresponding office shall, on and after reorganisation day, be deemed to have the authority previously granted to the former officer.
- (b) In paragraph (a) above:-
- "transferor authority" means Brighton Borough Council, Hove Borough Council and East Sussex County Council
- "reorganisation day" means 1st April 1997
- "corresponding office" means an office, by whatever name called, which carries or includes the functions of the former officer to the extent that they are relevant to the matter or issue in question.
19. Any interpretation of this Scheme of Delegation shall be in accordance with the Council's wish that the powers granted to officers under the Scheme shall not be construed restrictively.
20. Where any matter is by law or under the Scheme of Delegation to Committees specifically reserved to the Council, its Committees or Sub-Committees, the functions delegated to officers under this Scheme shall take effect as if they were limited to preparing the plan, strategy or proposal, as the case may be, for approval by Council or the relevant Committee or Sub-Committee.
21. Where functions delegated under Part B appear under the heading of an officer other than the Strategic Director or Director or head of the department, directorate or unit, the functions are delegated directly to that officer providing that the Strategic Director or Director or head of the department may exercise the function to the extent that it is not by law or under rules of professional practice required to be exercised by a particular person or a member of a particular profession. The General Delegations specified under part A may also be exercised by an officer (including the Head of a Delivery Unit) under whose heading a function is listed under part B to the extent that the General Delegations relate to a function so listed.

Save where indicated otherwise and subject to paragraphs 3, 15 and 21 of the Introduction to this Scheme, the following general powers are delegated to all Chief Officers in relation to the services for which they are responsible and, subject to any instructions of the relevant Strategic Director, to Heads of Delivery Units in so far as they relate to the services for which they are responsible.

**1. Administrative**

To administer the services for which they are responsible, including taking and implementing decisions which facilitate the operation or effectiveness of those services, and which fall within the policy decisions taken by the Council or its Committees or Sub-Committees. This power shall include the continuing review of the services for which they are responsible to maximise resources and implement best value.

**2. Financial**

To exercise all the functions delegated to officers under the Council's Financial Regulations.

**3. Land Management**

In the paragraphs below:-

- (1) The disposal or acquisition of any interest in property or the creation, extension or variation of any interest therein shall be in such form as shall receive the approval of the Monitoring Officer.
- (2) The term "land" includes buildings or parts of buildings and any estate or interest in land.
- (3) The term "Valuer" means the valuer appointed or approved by the Director of Finance.

In respect of land held or used for the purposes of a service administered by the officer:-

- (a) After consultation with the Monitoring Officer and the Valuer, to dispose of any land or any interest in land where the person acquiring the land or the interest has a legal right to acquire the same granted by an Act of Parliament or any rule of law;
- (b) To approve rent reviews where the Valuer certifies the terms to be the best consideration reasonably obtainable;
- (c) After consultation with the Valuer for all land in relation to item (i) below, and for all land except council housing in relation to item (ii) below –
  - (i) to approve the change of use of land let by the Council, and
  - (ii) to give consent for improvements or alterations to such land

(except where any compensation payable by the Council is likely to exceed £10,000);

- (d) After consultation with the Monitoring Officer, to take action on all matters concerned with the enforcement by or against the Council of the terms or provisions of any lease or disposal, including the service of appropriate notices under any statutory provision whether or not including the forfeiture or other termination of such lease or other provision;
- (e) After consultation with the Valuer and the Monitoring Officer, to grant easements, licences and wayleaves;
- (f) Subject to the limitations expressed above, to undertake the general management of land, including the making of any necessary planning applications and applications for building regulation consent;
- (g) After taking appropriate professional advice in accordance with guidelines from time to time laid down by the Council, to authorise land to be declared surplus to the requirements of the officer's area of service. Management and future use of the land will be transferred to the Strategic Director for Resources to be held corporately, pending appropriation or disposal;
- (k) After consultation with the Monitoring Officer and subject to the advice of the Valuer, to accept the surrender of leases.

#### **4. Human Resources**

- (1) Subject to the policies, practices and procedures of the Council, to manage staff reporting to the Chief Officer (including Lead Commissioners and Commissioners) and, in the case of Heads of Delivery Units, staff within the relevant delivery unit.
- (2) Without prejudice to the generalities of (1) above, to engage employees and extend contracts of employment, to promote, discipline, suspend and dismiss employees, to accelerate increments and, after consultation with the Strategic Director for Resources, to extend the provisions of the Occupational Sick Pay Scheme at their discretion and in particular cases in accordance with:-
  - (a) the policies and practices of the Council;
  - (b) the terms and conditions of employment recognised and approved by the Council in relation to the several categories of employees.

Provided that:-

- (i) the above delegations shall not apply to the Strategic Director of People in his capacity as Director of Children's

Services to the extent that separate arrangements have been made under the specific delegations (Part B);

- (ii) the above delegations shall not be exercised by any officer in relation to his/her own post;
- (iii) In addition to the general powers, the Chief Executive shall be authorised to exercise the powers delegated above in so far as they relate to any officers reporting directly to the Chief Executive including Heads of Delivery Units.

[NOTE – the appointment of Chief Officers, the Monitoring Officer, the Director of Finance and Deputy Chief Officers is subject to separate arrangements set out in the Officer Employment Procedure Rules]

## **5. Surplus Property**

To sell or dispose of, at the best price reasonably obtainable, surplus vehicles, plant, stores and equipment, subject to competitive tenders being obtained wherever reasonably practicable and due compliance with the Council's Standard Financial Procedures.

## **6. Appointment of Authorised Officers**

- (1) In connection with any functions delegated to or administered by the officer:-
  - (a) to act as and to appoint persons to act as authorised officers or inspectors (or in other similar capacities);
  - (b) to enter or authorise persons to enter land or premises.
- (2) Subject to the agreement of the Monitoring Officer, to authorise officers within his/her Service to prosecute or defend or to appear on the Council's behalf in proceedings before a Magistrates' Court, Family Proceedings Court, the County Court or any other Court or Tribunal.

## **7. Urgency Powers**

- (1) In cases where an emergency has been declared under the Council's emergency planning or business continuity procedures:-
  - (a) After consultation with the Leader of the Council or a Deputy Leader, to exercise any of the functions within the service area of the officer in cases of urgency where it is not practicable to obtain prior approval of the relevant Committee or Sub-Committee . See also notes (i) to (iv) below.
  - (b) To approve expenditure of up to £1,000,000, the action taken to be reported for information to the Cabinet and Group Leaders as soon as practicable. See also notes (i) to (iv) below.



## NOTES

- (i) Contact the Civil Contingencies Duty Officer on 07540 675 169 in connection with the exercise of the above delegated powers.
  - (ii) The Leader of the Council or in his / her absence a Deputy Leader shall be informed as soon as is practicable if it appears likely that any such emergency will be declared.
  - (iii) If it is not possible or practicable for an officer who would normally exercise the above delegated powers to do so, the powers may be exercised by the officer who is designated to be in charge under the Council's emergency planning or business continuity procedures or any officer appointed by him / her to act on his / her behalf.
  - (iv) If it is not possible or practicable for the officer to consult the Leader or a Deputy Leader before exercising the above delegated powers, the officer may exercise the powers without doing so but shall take such steps as appear appropriate at the time to keep Members informed of the action taken.
- (2) In any other cases of urgency:-
- (a) After consultation with the Chair (or in his / her absence, a Deputy Chair) of the relevant Committee or Sub-Committee, to exercise any of the functions within the service area of the officer in cases of urgency where it is not reasonably practicable to obtain prior approval of a Committee or Sub-Committee.
  - (b) The action taken shall be reported, as appropriate, to the Committee or Sub-Committee.

## **8. Miscellaneous Matters**

Subject to any general directions of the Council or the relevant Committee or Sub-Committee:-

- (1) to approve minor exceptions to schemes of general policy settled by the Council, Committee or Sub-Committee;
- (2) in accordance with the provisions of Contract Standing Orders, to open tenders for goods, services or other matters and, when the terms of Contract Standing Orders have been complied with, to accept the appropriate tender for any contract not exceeding £500,000 (or £250,000 in the case of Heads of Delivery Units) in value or, in respect of any greater tender, after consulting the Chair of the relevant Committee or Sub-Committee;

- (3) where appropriate in connection with the service area of the officer and in the interests of the Council, to approve the attendance within the United Kingdom of any Member on external ad hoc duties (such as non-party political conferences and seminars) and to pay organiser's fees etc.

[NOTE - power to authorise payment of travel and subsistence allowances to Members in such circumstances or to approve attendance outside the United Kingdom is delegated to the Chief Executive – see Part B]

**I DELEGATIONS TO CHIEF EXECUTIVE**

**1. General**

- (1) To be the designated Head of Paid Service under the Local Government and Housing Act 1989.
- (2) As chair of the Strategic Leadership Board, to lead the overall direction and management of the Council's services including the initiation and development of strategic policies and corporate practices; and the delivery of priorities set by council Members and partners.
- (3) To direct, co-ordinate and implement the Council's actions in respect of legislation relating to council governance.
- (4) To exercise any of the functions delegated to any officer under part A or B of this Scheme of Delegation except those which, either as a matter of law or rules of professional practice, are required to be exercised by a particular person or a member of a particular profession.

**2. Interpretation of Scheme of Delegation**

- (1) After consultation as necessary with other relevant officers:-
  - (a) in cases of doubt or difficulty, to determine whether an officer may deal with a particular matter under the terms of this Scheme;
  - (b) where a matter for consideration or decision does not fall within this Scheme, to decide which Committee, Sub-Committee or Panel of the Council needs to consider it and whether that decision can be made under delegated powers or needs to be the subject of a recommendation to the Council;
  - (c) without prejudice to any decisions made by a Committee under Standing Orders, to determine whether the Committee's decisions should be reported to the Council for information.

**3. Members**

- (1) To deal with the following matters relating to Members:-
  - (a) taking declarations of acceptance of office, receiving resignations from office, and giving notice of casual vacancy in the office of Councillor;
  - (b) convening Council meetings for election to vacant office of Leader or of Chair;

- (c) to be the proper officer for the receipt of notices and other functions under Sections 15 and 16 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 and to make or terminate appointments of voting Members to Committees and Sub-Committees in accordance with the wishes of political groups;

[NOTE – see also Council Procedure Rule 18.9 which confirms the power to make/terminate appointments in those circumstances]

- (d) where appropriate and in the interests of the Council, to approve the attendance outside the United Kingdom of any Member on external ad hoc duties (such as non-party political conferences and seminars) and to pay organiser's fees etc;
- (e) to authorise payment of travel and subsistence to Members for attendance at:-
  - (i) conferences, seminars and other events within the United Kingdom approved by an officer;
  - (ii) conferences, seminars and other events outside the United Kingdom approved under (e) above.

[NOTE the payment of Members' allowances is the function of the Director of Finance]

#### **4. Returning Officer**

To be the

(1) Returning Officer (or Deputy Returning Officer in the case of National and European Elections) under the Representation of the People Acts and

(2) if so designated by the Secretary of State, Police Area Returning Officer and/or Local Returning Officer under the Police Reform and Social Responsibility Act 2011.

#### **5. Executive Office**

To manage the Council's Executive Office and Civic Office.

## **II DELEGATIONS TO STRATEGIC DIRECTOR OF RESOURCES**

### **1. General**

- (1) To manage the following Council services:-
- (a) Legal & Democratic Services
  - (b) Policy, Analysis and Performance
  - (c) Human Resources and Development
  - (d) Corporate Communications
  - (e) Property & Design
  - (f) ICT
- (2) To exercise any of the functions set out below except those delegated to the Head of Legal and Democratic Services marked # ( being functions which, either as a matter of law or rules of professional practice, are required to be exercised by a particular person or a member of a particular profession) .

### **2. Head of Legal and Democratic Services**

#### **(1) Monitoring Officer #**

To be the Monitoring Officer of the Council for the purposes of Section 5 of the Local Government and Housing Act 1989 and discharge the functions of that officer under the Local Government Act 2000;

#### **(2) Solicitor Role #**

As Head of Law, to be the Solicitor and the proper officer for the legal affairs of the Council and as such take all steps necessary to protect or secure the protection of the Council's interest from a legal point of view as he/she considers appropriate.

#### **(3) Proceedings #**

- (a) To institute, defend and carry on or settle legal proceedings to protect the Council's interest or to implement a decision made by the Council, its Committees, Sub-Committees or officers or for the recovery of any debt or sum due to the Council;
- (b) To exercise the Council's functions under Section 222 of the Local Government Act 1972 to institute or defend proceedings in the interests of the inhabitants of the Council's area etc.

#### **(4) Conveyances, Agreements and other documents #**

- (a) To prepare and execute any contract, agreement, conveyance or other document necessary to give effect to a decision of the Council, a Committee, Sub-Committee or officer acting under delegated functions;

- (b) In connection with the disposal of any interest in land or any other purpose, to enter into supplemental or replacement leases, deeds of variation, or other appropriate documents for the purposes of correcting any errors, resolving any ambiguities or facilitating the exercise of any of the Council's functions.

Provided that the Deputy Head of Law, a Principal Solicitor, a Managing Principal Solicitor or the Senior Lawyer (Property) of the Council, or any other solicitor authorised by the Head of Law may also exercise any of the functions delegated under sub-paragraphs (4) (a) and (b) above.

**(5) Review of constitution**

To review and update the Council's constitution from time to time and ensure the Council's decision making processes are robust.

**(6) Authorisation of officers**

- (a) To authorise any officer of the authority to prosecute or defend or otherwise appear in proceedings before a Magistrates' Court under Section 223 of the Local Government Act 1972;
- (b) To authorise any officer to represent the Council in the County Court under Section 64 of the County Courts Act 1984;
- (c) To authorise any officer to appear on behalf of the Council in any court, tribunal, arbitration hearing, meeting or any other forums where the Council has the power to grant such authority.
- (d) To authorise any officer or person representing the Council to sign statements of truth in court proceedings.

**(7) Insolvency #**

To serve statutory demands, sign or present petitions in bankruptcy or corporate insolvency, and take such other action or steps under the Insolvency laws as is necessary to protect or promote the Council's interest.

**(8) Guardians ad Litem**

Where the Monitoring Officer, after consultation with the relevant officer, considers necessary to exercise the following functions:-

- (a) From time to time to recruit, to make appointments to, and remove from the Panel of Guardians ad Litem and Reporting Officers in accordance with the Guardians ad Litem and Reporting Officers (Panels) Regulations 1991;
- (b) To administer the Panel and monitor the work of the Guardians ad Litem on behalf of the Council;

- (c) To agree the payment of expenses to persons appointed to the Panel and to agree other terms and conditions of appointment to the Panel;
- (d) To constitute complaints boards:-
  - (i) to investigate complaints about the operation of the Panel; and
  - (ii) to make recommendations concerning proposed termination of an appointment of a Guardian ad Litem or Reporting Officer.

**(9) Authentication of Documents**

To be the proper officer for the purposes of certifying the authenticity of Council reports, minutes and resolutions, providing that this function may also be exercised by the Chief Executive or the Head of Democratic Services, who will also be proper officers for this purpose.

**(10) Democratic Services**

- (a) To ensure proactive support to the democratic process and elected Members in accordance with the constitution.
- (b) To manage the Council's services for Members and in connection therewith to take all necessary steps to secure compliance with Part VA of the Local Government Act 1972 (Access to Meetings and Documents of the Council, its Committees and Sub-Committees), and all subsequent related legislation.

**(11) Overview and Scrutiny**

- (a) To ensure the Council has an effective overview and scrutiny function.
- (b) To manage the Council's overview and scrutiny function, and to take all necessary steps to ensure compliance with any legal requirements for overview and scrutiny, including scrutiny of local health services, of local police services and as lead local flood authority.

**(12) Ethical Standards**

- (a) After consultation with the Chair or Vice Chair, to require meetings of the Audit and Standards Committee or Standards Panel to be held and to exercise any function of the Committee or the Panel (to the extent that such functions are exercisable by an officer) if it appears to be appropriate to do so in lieu of referring the matter to a meeting.

- (b) To establish and maintain a registers of interests of Members and Co-opted Members of the Council and Rottingdean Parish Council in accordance with Chapter 7 of the Localism Act 2011.

### **3. Human Resources**

- (1) To develop a people strategy that supports the corporate strategy and priorities, and the visions and values of the Council.
- (2) To develop people policies, procedures and codes of practice that meet the Council's changing needs and are in accordance with the people strategy, including employee training and development, providing the desired behaviours, skills and competencies, employee culture and management ethics; and ensuring that resources are focussed where they will provide best value.
- (3) To develop corporate policies relating to equality of opportunity for staff in their employment, training, development and promotion, and with regard to employee responsibilities for ensuring equality of access and fair treatment of customers.
- (4) To develop a corporate strategy and policies for the management of the Council's Health and Safety and well being responsibilities.
- (5) To provide a strategic focus for organisational development matters across the Council, maintaining an overview of current and future needs, and ensuring that strategic objectives and priorities are met.
- (6) To develop a corporate employee communication and consultative strategy. To design maintain and review the council's formal consultative mechanisms. To promote consultative systems and approaches that develop sound partnership working with the recognised trade unions.
- (7) To develop a "terms and conditions of employment" framework for all staff (excluding teaching staff) and to act as the Council's "chief negotiator" in discussions with the Council's trade unions, in respect of terms and conditions, pay and reward and people policies.
- (8) To ensure a Brighton & Hove City Council input into the national negotiating machinery.
- (9) In liaison with the relevant Strategic Director, Lead Commissioner, Head of Resource Unit or Head of Delivery Unit, to determine:- entitlement to the occupational sick pay scheme, the application of the Council's early retirement and redundancy provisions, relocation scheme, and the settlement of legal/employment tribunal claims; in accordance with the agreed policies of the Council.
- (10) To administer the appointment procedures and to direct the Head of Human Resources to act as "Human Resources Manager" to the Council's JNC staff, in accordance with Council policies.



- (11) To ensure that the implementation and effectiveness of all human resources policies and practices are monitored, reviewed and revised when necessary.
- (12) To provide the full range of human resources services to Council departments including advice and support regarding appointments, promotion and disciplining of staff.
- (13) To lead on a range of organisational improvement and development activities, analysing needs and devising appropriate solutions, including but not limited to value for money work, learning and development across the Council, and internal cultural change activity.

#### **4. Policy, Analysis and Performance**

- (1) To provide a wide range of policy development and partnership support functions to the Council and the City including, but not limited to:-
  - Ensuring an effective Local Strategic Partnership and Public Service Board;
  - Ensuring that decision making is supported by timely and robust evidence/research data where required;
  - Ensuring the effective coordination of corporate and other policy (e.g. corporate planning.);
  - Leading the Council's sustainability approaches;
  - Researching and developing policy proposals.
- (2) To monitor and develop the Council's performance management frameworks and systems, and to build good working relationships with a range of audit and inspection bodies and other regulators.
- (3) In conjunction as necessary with the Chief Executive, to deal with complaints to the Commission for Local Administration in England and Wales (the local Ombudsman) and complaints from the public under the Council's internal complaints procedure, providing that arrangements can be made for initial stages of complaints to be dealt with by the relevant service department.

#### **5 Corporate Communications**

- (1) To manage the Council's corporate communications service.
- (2) To develop and implement the internal and external communications strategies for the Council.
- (3) To provide strategic communications advice to the Council in support of its priorities, vision, values and services.
- (4) To provide a 24 hour Council wide press service and contingency plans for crisis press management.
- (5) To ensure that the content and the design of Council publications, leaflets, internet, intranet and all other published materials maintain the

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Council's corporate identity and are of an appropriate standard in terms of design quality and accessibility.

- (6) To prepare and distribute such newspapers, information leaflets and other periodical publications as the Council may approve from time to time.

## **6. Property and Design**

- (1) To provide and maintain the Council's land records and other corporate property information.
- (2) To undertake corporate property reviews, develop policies and set up and monitor corporate standards to achieve the policies.
- (3) To manage the Council's commercial property portfolio.
- (4) To undertake client functions under various contracts with third parties including those related to property management.
- (5) To set up, review and maintain the Council's corporate lists of approved contractors including adding or removing contractors from lists in accordance with the requirements of Contract Standing Orders.

[NOTE:- Under the Contract Standing Orders responsibility for monitoring lists of approved contractors is shared between the Head of Property and Design and the Procurement Strategy Manager.]

- (5) In consultation with the relevant Chief Officer or Head of Delivery Unit, to manage Council owned properties.
- (6) In consultation where necessary with the relevant Chief Officer or Head of Delivery Unit, to exercise the Council's functions in respect of the acquisition and disposal of land in the following circumstances:-
  - (a) To approve the detailed terms of any disposal or acquisition authorised in principle by the Council where the terms are certified by the Valuer to be the best consideration reasonably obtainable;
  - (b) To acquire or dispose of the freehold or leasehold of land for a consideration of £25,000 or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable and after consulting the chair of the relevant Committee or Sub-Committee;
  - (c) To acquire or dispose of land on a lease for 25 years or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable;
  - (d) After consulting the Chair of Policy & Resources Committee, to acquire or dispose of land for a consideration of up to £250,000 provided that (i) the terms are certified by the Valuer to be the best consideration reasonably obtainable and (ii) the property is, or is to

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be, held for the purposes of the functions of the Strategic Director of Resources or has been declared by the relevant Chief Officer or Head of Delivery Unit to be surplus to requirements under paragraph 3(3) sub-paragraph (g) of Part A General Delegations above.

In relation to the paragraphs above:-

- (1) The disposal or acquisition of any interest in property or the creation, extension or variation of any interest therein shall be in such form as shall receive the approval of the Monitoring Officer.
- (2) The term "land" includes buildings or parts of buildings and any estate or interest in land.
- (3) The term "Valuer" means the valuer appointed or approved by the Director of Finance.

[NOTE:- See also the general Land Management delegations under paragraph 3 of Part A General Delegations above.]

## **7. ICT**

### **(1) Information and Communication Technology**

To exercise the Council's functions in respect of:-

- (a) The implementation of e-government: a strategic framework for public services in the Information Age;
- (b) The provision of information technology services to Council departments and responsibility for the Council's overall IT strategy.

### **(2) Data Protection and Freedom of Information**

To ensure compliance with the Data Protection Act and Freedom of Information Act, including, but not limited to:-

- (a) Publishing and maintaining the Council's publications scheme, and
- (b) Ensuring that requests for information are dealt with in accordance with legal requirements.

## **8. City Services**

To exercise the following Council functions:-

### **(1) Local Taxation Services**

To exercise the Council's functions regarding the Council Tax, Non-Domestic Rates, General Rates and the Community Charge as are more particularly set out in **Schedule 6** to this Scheme of Delegations.

### **(2) Housing Benefit and Council Tax Benefit**

Subject to any general guidance or limitation imposed by the relevant Committee or Sub-Committee:-

- (a) to exercise all the Council's functions regarding Housing Benefit under the Housing Benefit (General) Regulations 1987 and relevant legislation;
- (b) to discharge all the Council's functions regarding Council Tax Benefits;

and in addition to the Head of City Services, the Head of Revenues and Benefits and the Benefits Managers are authorised to exercise the above functions.

### **(3) Local Land Charges**

To exercise the Council's functions in relation to local land charges including:-

- (a) the functions under the Local Land Charges Act 1975 and the Local Government (Miscellaneous Provisions) Act 1982, Section 34; and
- (b) the fixing of fees under the Local Authorities (Charges for Land Searches) Regulations 1994.

### **(4) Registration Service**

- (a) To exercise the Council's functions under the Registration Service Act 1953 regarding the registration of births, deaths and marriages;
- (b) To exercise the Council's functions under the Marriage Acts of 1949 and 1994, the Civil Partnerships Act 2004 and the Marriages (Approved Premises) Regulations 1995 save where a review has been sought;
- (c) To be the proper officer for the purposes of the Registration Service Act 1953 and carry out functions in accordance with Brighton & Hove Registration Scheme 2007.

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(5) **Travel Concessions**

To exercise the Council's functions regarding travel concessions.

(6) **Electoral Registration and Elections**

- (a) To be the electoral registration officer under the Representation of the People Acts.
- (b) To carry out the day-to-day management of the Council's electoral registration service and to make arrangements for the holding of elections.

(7) **Coroners Service**

To exercise the Council's functions regarding the Coroners Service under the Coroners Act 1988 and other relevant legislation.

(8) **Bereavement Services**

To exercise the Council's functions in relation to bereavement services including functions under the Public Health (Control of Disease) Act 1984.

(9) **Appointment of Authorised Officers**

In connection with any functions delegated to or administered by the Head of City Services, to:-

- (a) act as and to appoint persons to act as authorised officers or inspectors (or in other similar capacity); and
- (b) enter or authorise persons to enter land or premises.

(10) **Access Services**

To manage the receptions, switchboard and related services at the Council's main buildings (including Brighton Town Hall, King's House and Hove Town Hall).

**9. Emergency Planning**

To exercise the Council's functions in respect of emergency planning and business continuity, including the council's functions under the Civil Contingencies Act 2004.

### **III DELEGATIONS TO DIRECTOR OF FINANCE**

#### **1. General**

To manage the following Council services:-

- (a) Strategic Finance
- (b) Financial Services
- (c) Audit and Business Risk
- (d) Procurement

#### **2. Strategic Finance, Financial Services, and Audit and Business Risk**

- (1) To be the officer responsible for the administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972; to be the responsible financial officer under the Accounts and Audit Regulations 2011 and, subject to any guidance or limitations imposed by the Policy & Resources Committee, to take such steps as are necessary for the proper administration of the financial affairs of the Council. The other finance functions listed below are not to prejudice the generality of this function.
- (2) To exercise the Council's functions where required or empowered to do so under the Council's Financial Regulations and enter into contracts in relation to the Council's banking arrangements.
- (3) To make premature repayment of mortgages and bonds.
- (4) Subject to reporting on the actions taken on major awards to the next meeting of the Cabinet, to implement decisions of National Negotiating Bodies affecting employees except insofar as such decisions give discretionary powers to employing authorities.
- (5) To make arrangements for the borrowing of such monies as the Council has decided shall be borrowed in accordance with such policy as may be laid down from time to time and subject to the receipt of the necessary Government sanctions and consents.
- (6) To issue bonds in accordance with the provisions of the Local Government and Housing Act 1989 and to deal with allied detailed matters in accordance with the approved policies.
- (7) To issue bills in accordance with the provision of the Local Government and Housing Act 1989 and approved conditions.
- (8) To pay statutory benefits under the Local Government Superannuation Scheme.

- (9) Following consultation with the Chair of Policy & Resources Committee, to vary the interest rate chargeable for staff housing advances.
- (10) To take such steps as are necessary to give effect to any decision of the Council regarding its investments.
- (11) To approve increases in accountant and mechanical/technical adviser fees relating to services provided in connection with any track betting licence.
- (12) To pay Members' allowances in accordance with the scheme approved by the Council.
- (13) To exercise the Council's functions regarding arrangements for internal audit, including risk management.
- (14) To discharge the Council's functions regarding arrangements for insurance and deal with claims against the Council in accordance with the practice and procedure agreed from time to time with the Council's insurers.
- (15) To make amendments to the Financial Regulations and Standard Financial Procedures to reflect best value, new legislation, and any changes to the Council's Standing Orders and Scheme of Delegation.
- (16) To enter into agreements and authorise payments in respect of car loans, provided that these functions may also be exercised by the Head of Financial Services.
- (17) To develop and review the Council's Anti-Fraud and Corruption Strategy and to monitor its implementation.
- (18) To take action for the provision of a treasury management service to supplement the skills of in-house staff.
- (19) Within the general framework set by the Council from time to time, to exercise the functions of the Council in relation to:-
  - (i) Revenue and capital budgetary control and financial services to departments.
  - (ii) The co-ordination and facilitation of project programmes.
  - (iii) Supplying departments with service review and specific performance improvement support, including support for best value and value for money reviews.
- (20) To determine applications for assistance under the council's general indemnity for Members and officers appointed or nominated by the council to serve on outside bodies.

- (21) To be the 'Senior Responsible Officer' for the purposes of the Home Office Codes of Practice on the Regulation of Investigatory Powers Act 2000.

**3. Procurement**

To co-ordinate the Council's procurement strategy; to promote best value and good practice in the Council's procurement activity.



## **IV DELEGATIONS TO STRATEGIC DIRECTOR OF PEOPLE**

### **1. Introduction**

For the purposes of this Scheme of Delegations, the term “young people” means young people up to the age of 19.

### **2. Director of Children’s Services**

- (1) To be the Council’s Director of Children’s Services pursuant to section 18 of the Children Act 2004.
- (2) To discharge the education, children’s social services and other functions conferred by section 18(2) of the Children Act 2004 and any additional functions for which the Director of Children’s Services may subsequently become the statutory officer.
- (3) Without prejudice to the generality of the functions delegated at paragraphs (1) and (2) above, to exercise the specific functions set out below.

### **3. Section 75 Arrangements**

To exercise the Council’s functions under or in connection with the children and young people’s partnership arrangements made with health bodies pursuant to section 75 of the National Health Service Act 2006 and section 10 of the Children Act 2004, to the extent that the arrangements permit an officer to exercise the functions.

### **4. Education**

- (1) To exercise the Council’s functions as a local education authority including in respect of the management of education services and securing the provision of quality education in schools.
- (2) In consultation with a standing panel of teacher representatives, to fix school terms and holidays.
- (3) To carry out consultations on proposed annual admission limits for all schools for which the Council is the admissions authority and to report thereon to the Children & Young People Committee and to allocate to pupils the school at which education is to be provided in accordance with the Council’s school admissions policies and related criteria.
- (4) To make arrangements for the assessment of the special educational needs of children; where appropriate, to make statements of the special educational needs of children; to arrange for the special educational provision specified in those statements; to prepare for defence or amendment of statements contested at SEN Tribunals in consultation with the Monitoring Officer.
- (5) To make school attendance orders and where appropriate in consultation with the Monitoring Officer, to exercise the powers of the

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Council to institute proceedings if a child of compulsory school age is not receiving efficient full time education suitable to his age and ability.

- (6) To respond on behalf of the local education authority when consulted by a governing body before the making or varying of curriculum statements.
- (7) To exercise the Council's functions in respect of pupils excluded from schools and to give directions to head teachers as to reinstatement of pupils.
- (8) To respond to resolutions passed at annual meetings of parents/governors (the responses to be submitted to the Children & Young People Committee for information).
- (9) In conjunction with the Monitoring Officer, to make Orders, or to amend existing Orders, to provide for Instruments and Articles of Government for new Council, controlled, aided and special schools based on Orders previously approved for existing schools in the appropriate size and category.
- (10) To act as the Council's main representative in consultation with other bodies concerned with the provision of education, including the Learning and Skills Council and Higher Education Bodies
- (11) To exercise the Council's functions in relation to inter-agency partnerships established to deliver aspects of educational provision or provision for children and young people, including the Early Years Development and Childcare Partnership, Sure Start, Children and Young People's Strategic Partnership, Local Learning Partnership, Connexions and the Education Action Zone.

## **5. Children and Young People's Social Services**

- (1) To exercise the Council's functions in respect of social services to children and young people and, without prejudice to the generality of this paragraph 5(1), to exercise the functions listed below in 5(2) to (18).
- (2) To exercise the functions conferred on the Council to give and refuse consents and to impose and cancel requirements and prohibitions in respect of the private fostering of children under the Children Act 1989; to remove a child under the Adoption Act 1976 and to make exemptions to the usual fostering limits under the Children Act 1989.
- (3) To provide individuals or families with family placements and residential and day care accommodation within the agreed policy of the Council and the estimates provisions.
- (4) To make variations to the number of places at any Social Services establishment, in response to changes in demand or resource availability.

- (5) After consultation with the Monitoring Officer, to exercise the functions of the Council to enforce, make application and representations to a Court or Magistrate, and authorise, institute and defend proceedings under any enactment which stands referred to the Cabinet in respect of children and young people.
- (6) To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the contribution not exceeding £1000 or such other sum as may from time to time be fixed by the Council.
- (7) To approve expenditure under Sections 17 and 24 of the Children Act 1989, provided that any expenditure remains within the approved annual budget for expenditure on Child Care.
- (8) To exercise the functions of the Council in respect of children and young persons in their care or being looked after by them, including the power to place children and young persons in accommodation to meet their special needs and to appoint independent persons as visitors.
- (9)
  - (a) To authorise in exceptional individual cases variations from the approved scale of charges for a particular service and to operate the scale of boarding out allowances for foster parents, allowances to children boarded out or in residential establishments and allowances under Section 24 of the Children Act 1989;
  - (b) To vary any of the limits in the approved scale of allowances for foster care, adoption and residence orders in exceptional circumstances, provided the resulting additional expenditure is within the approved childcare expenditure.
- (10) To agree to the payment of up to 75% of the travelling expenses of employees to and from work at residential and day-care establishments where recruitment is difficult.
- (11) To purchase groceries, meat and other domestic provisions locally for residential and day-care establishments under the control of the Children & Young People Committee:-
  - (a) if satisfactory tenders are unlikely to be obtained; and
  - (b) where client training is involved.
- (12) To undertake statutory visits to children's homes.
- (13) To exercise all the functions of the Council as an adoption agency under the Adoption Agencies Regulations 1983, having regard to the recommendations of the Adoption Panel.
- (14) (a) To increase the once only charge of £3,000 (approved in February 1998) for a home-study assessment for inter-country

adoptions by the rate of increase applied to APT&C staff salaries each year;

- (b) To reduce the charge for a home-study assessment for inter-country adoptions in cases where there has been a previous assessment by another local authority or voluntary agency;
  - (c) To establish and review periodically the fee to be charged for undertaking assessments for inter-country adoptions.
- (15) In respect of children in care, to consent to applications for Residence Orders where the Director considers it to be in the best interests of the child concerned, and to withhold consent in other cases.
  - (16) To provide information, advice and training in relation to early years and childcare providers in Brighton and Hove, and to provide a children's information service.
  - (17) To exercise the Council's functions under the Data Protection Act 1998 regarding personal files/information.
  - (18) To exercise the Council's functions under the Crime and Disorder Act 1998 as appears necessary in the interests of children, young persons, their families and local communities and in accordance with the Council's community safety and youth crime strategies.

#### **6. Assistance to Pupils/Students**

- (1) To determine applications for boarding and tuition allowances for pupils and applications for awards and grants to students, including the power to determine where an applicant's circumstances are such that an exception to the normal policy of the Council ought to be made.
- (2) To determine whether an applicant's circumstances are such that an exception to the policy on excluding courses from the discretionary awards scheme ought to be considered and made.
- (3) In appropriate cases, to authorise students to receive education at an institution of further or higher education maintained by another local education authority and to make to that local education authority the appropriate payment.
- (4) In the case of a Brighton & Hove pupil of compulsory school age with special educational needs or "looked after" by another local education authority, to meet claims for recoupment by that local education authority in respect of its provision of primary or secondary education for that pupil.
- (5) To make determinations on eligibility for home to school transport and deal with any appeals against such a determination as provided for under sub-paragraph (8) below.

- (6) To make arrangements, through the Strategic Director for Place, for the transport of pupils and students to school or college where there is a statutory duty or it is the policy of the Council to provide such transport.

[NOTE:- The management of the provision of the transport service (as opposed to eligibility and appeals) is a function delegated to the Strategic Director for Place].

- (7) To set charges for transport conditional permits following consultation with the Chair of the Children & Young People Committee.
- (8) To appoint three officers not previously involved in the matters concerned to act as an Appeals Panel to determine student award appeals and transport appeals referred to the Panel by the Strategic Director.

#### **7. Adult Learning**

To discharge the Council's functions under the arrangements with the Learning and Skills Council for the provision of adult education.

#### **8. Human Resources Functions**

- (1) In respect of employees whose employment is delegated to school governing bodies under the Local Management of Schools Schemes
  - (a) to attend any relevant proceedings of a governing body or relevant selection panel for the purpose of offering advice relating to the appointment of a head teacher, deputy head or other teacher;
  - (b) to respond on behalf of the local education authority when consulted about selecting an applicant for a non-teaching post where the post is for 16 hours or more per week;
  - (c) to attend any hearing for the purpose of giving advice prior to a decision to dismiss any person employed to work at any school.
- (2) To exercise any other human resources functions in relation to schools maintained by the local education authority which are not delegated to school governing bodies under the Local Management of Schools Schemes.
- (3) To exercise the functions of the Council in relation to the nursery service for employees.

## **9. Buildings/Premises**

- (1) Except in the case of buildings or projects involving a major change in design policy, to approve plans prepared by or on behalf of the Council for capital projects which have been agreed by the Council and in the case of existing educational establishments with the head or principal and governors concerned.
- (2) To exercise the Council's functions in respect of maintenance of premises owned by the Council and used for education and children's social care, and to ensure that such premises are fit and adequate for that purpose.
- (3) To authorise the exercise of the local education authority's statutory duty to transfer sites to the trustees of voluntary schools.
- (4) To authorise the payment of such sums as may be approved by the Department for Education in respect of the Council's contribution to aided school projects, subject to the Director of Finance being satisfied that sufficient provision has been made for the expenditure in the revenue or capital budget and that, where required, borrowing authorisation will be available.
- (5) To authorise members of staff at educational establishments to exercise the powers of removal conferred by Section 547 of the Education Act 1996.

[NOTE - the Monitoring Officer is separately authorised to institute proceedings for alleged offences].

- (6) To cancel, without notice, lettings of any nature where the intended use of school premises has been misrepresented by an applicant or when it is not possible to proceed with a letting for any reason beyond the Council's control.
- (7) After consultation with the Chair of the Children & Young People Committee, to agree variations in the approved scale of letting charges for schools.

## **10. Guardians ad Litem**

- (1) To take such steps as are necessary to secure the provision of Guardians ad Litem and Reporting Officers service, including the management of the service contract, provided that the functions of the Strategic Director under the above delegation shall not include the direct appointment or removal of Guardians ad Litem and Reporting Officers.
- (2) To make available staff of the Council's Children and Young People's Services to serve on the Panels of Guardians ad Litem of other authorities who offer reciprocal arrangements.

## **11. Miscellaneous**

- (1) To grant licences and to approve bodies of persons to enable children to take part in public performances under Section 37 of the Children and Young Persons Act 1963.
- (2) In relation to the Council's education functions, to approve adjustments to the specification for the cleaning of Council buildings and the provision of catering services and grounds maintenance services subject, in the case of buildings and catering services and grounds maintenance services not the responsibility of the Strategic Director, to prior consultation with the appropriate Chief Officer.
- (3) To set prices for school meals under the school meals contract.
- (4) To set fees and charges for music tuition and instrument hire (following consultation with the management Committee of Brighton and Hove Music Trust).
- (5) To designate premises as premises to which children and young persons of compulsory school age may be removed under section 16 of the Crime and Disorder Act 1998, in accordance with the Council's community safety and youth crime strategies.
- (6) To exercise the functions of the Council in relation to educational charitable trusts and proposals for such trusts.

## **12. Adult Social Care & Health**

- 12.1 To exercise the functions of the Council regarding adult social care and health except to the extent that such function is required as a matter of law or rules of professional practice to be exercised by the Director of Adult Social Services.

## **13. Delegations to Lead Commissioner Adult Social Care and Health**

### **(1) Director of Adult Social Services**

To be the Council's Director of Adult Social Services pursuant to Section 6(A1) of the Local Authority Social Services Act 1970 and discharge the Council's adult social care and health functions.

### **(2) General Adult Social Services**

- (i) To provide individuals or families with family placements and residential and day care accommodation within the agreed policy of the Council and the estimates provisions.
- (ii) To make variations to the number of places at any Social Services establishment, in response to changes in demand or resource availability.

- (iii) After consultation with the Monitoring Officer, to exercise the powers of the Council to enforce, make application and representations to a Court or Magistrate, and authorise, institute and defend proceedings under any enactment in respect of adults.
- (iv) In accordance with the general policies from time to time laid down by the Council, to administer arrangements made under Section 29 of the National Assistance Act 1948, Section 45 of the Health Services and Public Health Act 1968, and Section 2 of the Chronically Sick and Disabled Persons Act 1970 for the provision of services for disabled and old persons, and to authorise expenditure within overall budget provision.
- (v) After consultation with the Director of Finance, to set future inter-authority and standard charges for residential and day-care accommodation, in accordance with the formula recommended by the Local Government Association.
- (vi) To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the contribution not exceeding £1000 or such other sum as may from time to time be fixed by the Council.
- (vii) To authorise officers to be the Council's nominee for the purpose of obtaining Grants of Probate and to deal with related matters and to seek appointment as Receiver where it is appropriate for an officer of the Council to act.
- (viii) To appoint approved social workers for the purposes of the Mental Health Act 1983.
- (ix) To accept guardianship applications and to make orders for the discharge of patients subject to guardianship under the Mental Health Act 1983.
- (x) To authorise in exceptional individual cases variations from the approved scale of charges for a particular service and to operate the scale of allowances to disabled people attending day centres.
- (xi) To agree to the payment of up to 75% of the travelling expenses of employees to and from work at residential and day-care establishments where recruitment is difficult.
- (xii) To purchase groceries, meat and other domestic provisions locally for residential and day-care establishments under the control of the Adult Care & Health Committee:-
  - (a) if satisfactory tenders are unlikely to be obtained; and
  - (b) where client training is involved.



- (xiii) To establish and amend the eligibility criteria in respect of community care services under the National Health Service and Community Care Act 1990 as circumstances dictate.
- (xiv) In special circumstances to exceed the maximum weekly amount for community care services under the National Health Service and Community Care Act 1990.
- (xv) After consultation with the Director of Finance, to make payments to providers of individual care under the National Health Service and Community Care Act 1990 quarterly in advance where the provider will not accept any other terms.
- (xvi) After consultation with the Director of Finance and the Monitoring Officer, to disregard the value of a former dwelling in assessing the client's contribution towards the cost of residential accommodation, where it is considered reasonable to do so.
- (xvii) After consultation with the Monitoring Officer, to exercise the power to take charges against interests in property in accordance with Section 22(7) of the Health and Social Services and Social Security Adjudications Act 1983 by making declarations in writing to that effect for the purposes of securing the repayment to the Council of charges for the provision of residential accommodation.
- (xviii) To exercise the Council's functions regarding residential homes and nursing homes.
- (xix) To exercise the Council's functions under the Data Protection Act 1998 regarding access to personal files or information held by the department.

(3) **Section 75 Arrangements**

To exercise the Council's functions under or in connection with the adult social care and health partnership arrangements with health bodies made pursuant to Section 75 of the National Health Service Act 2006, to the extent that the arrangements permit an officer to exercise the functions.

(4) **Supported Employment**

To exercise the Council's functions regarding the employment of physically disabled people.

## **V DELEGATIONS TO STRATEGIC DIRECTOR OF PLACE**

### **1. Environmental Awareness**

To exercise all the functions of the Council regarding the promotion of environmental awareness.

### **2. National Parks**

To exercise the Council's functions regarding National Parks so far as they relate to or affect Brighton & Hove.

### **3. Parks and Green Spaces**

- (1) To manage and control the Council's parks and open spaces
- (2) To exercise the Council's functions regarding the management of the countryside, grounds maintenance and planned maintenance.
- (3) To manage the Council's leisure facilities in parks and open spaces.
- (4) To exercise the Council's functions as commons registration authority and act as the proper officer for those purposes.

### **4. Travellers and Gypsies**

To exercise the Council's functions regarding all issues relating to travellers and gypsies including management of authorised sites.

### **5. Highways**

To exercise the Council's functions regarding highways, including those set out in **Schedule 7** to this Scheme of Delegations.

### **6. Traffic Management**

- (1) To make provision for the regulation of traffic, pursuant to the Council's statutory functions, where formal orders are not required.
- (2) To authorise the Monitoring Officer to make temporary traffic orders without recourse to the consultation procedure.
- (3) To make provision for road safety schemes.
- (4) After consultation with Monitoring Officer and local Members (save in the case of temporary traffic restrictions) to make, give consent to or object to the making of, apply for or confirm any order under the provisions of the Highways Act 1980, the Wildlife and Countryside Act 1981, the Road Traffic Regulation Act 1984, the Town and Country Planning Act 1990, the Traffic Management Act 2004, the Town Police Clauses Act 1847 and the Rights of Way Act 1990.

## **7. Parking Management**

- (1) To determine the need for on-street parking bays for blue badge holders and for residents' parking bays and make or authorise the making or revocation of appropriate orders for the purpose.
- (2) To manage the car, coach and lorry parks owned by the Council.
- (3) To exercise the Council's functions regarding Civil Parking Enforcement.

## **8. Transport**

- (1) To prepare and implement the Council's Local Transport Plan (following approval by the Council).
- (2) To prepare and implement the Council's Transport Policy.
- (3) To arrange such consultations as appear to him/her to be appropriate following the notification by an operator of an intention to change a local bus service.
- (4) To take steps for the provision at short notice of temporary gap filling journeys where an operator withdraws from a route.
- (5) To award public transport contracts within established guidelines and policy.
- (6)
  - (a) On behalf of the Council, to enter into a 'de minimis' arrangement with an operator, subject to being satisfied that the particular arrangement is both appropriate and the most cost effective means of securing the provision of a journey;
  - (b) to authorise short term contracts for vehicle operators and to authorise vehicle leases in both cases not exceeding the sum of £12,000 per contract.
- (7) To approve requests for fares increases on supported services which are broadly in line with the general level of inflation.
- (8) To manage the provision of transport services for client departments including home-school transport and transport for social services.

[NOTE:- The assessment of eligibility for home to school transport and any appeal relating to the determination on eligibility is a function delegated to the Strategic Director of People]

## **9. Waste Management and Control**

- (1) To exercise the Council's functions regarding waste, litter and fouling by dogs including:-
  - (a) collection and disposal;
  - (b) reduction and recycling;
  - (c) removal of abandoned vehicles;
  - (d) taking enforcement action in respect of the above.

## **10. Land Use Planning**

- (1) To prepare and keep under review the Authority's Plan and Local Plan (subject to the adoption of the Plans by resolution of the Council).
- (2) To assume overall responsibility for planning policy and practice.
- (3) To advise the Planning Committee on planning policy, conservation and the traffic impacts of any proposed development.

## **11. Town and Country Planning**

- (1) To determine applications in relation to matters listed under Part I of **Schedule 4** to this Scheme of Delegation having regard to the Council's relevant planning policies and published guidelines.

PROVIDED THAT the powers delegated under the above shall NOT apply where:-

- (a) 5 or more individual objections relating to valid planning matters from separate persons or bodies have been received in relation to applications that officers are minded to approve, or where 5 or more individual written expressions of support from separate bodies or persons have been received in relation to applications that officers are minded to refuse; or
- (b) Conservation Advisory Group (CAG) or Disabled Access Advisory Group (DAAG) requests, within the public consultation period, that an application is determined by the Planning Committee. In making the request CAG or DAAG shall state whether it would be seeking an approval or refusal of the application. If officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or
- (c) a Ward Councillor requests, within the public consultation period, that an application is determined by the Planning Committee. In making that request the Councillor shall state whether he/she would be seeking an approval or refusal of the

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application. If officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn. (NB In any case where the Ward Councillor is also a member of the Planning Committee and the application is referred to the Committee for determination, he/she will, if present, need to declare a prejudicial interest and, having exercised his/her right to make an oral representation to the Committee, leave the meeting during the consideration of the application.)

- (2) To exercise the Council's functions in respect of certificates of lawful use, tree preservation orders, enforcement action etc as more particularly set out in Part II of **Schedule 4** to this Scheme of Delegation.

## **12. Conservation and Design**

- (1) To exercise the Council's functions with regard to Conservation matters under the Town and Country Planning Acts.
- (2)
  - (a) On completion of the relevant works and within approved budget the approval of all payments of Historic Building Grants under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 up to the percentage of grant specified in the adopted Action Plan for the specific grant scheme;
  - (b) Under Historic Building Grant Schemes:-
    - (i) to determine applications for discretionary historic building grants not exceeding £20,000 in the case of 40% repair grants and £7,500 in the case of 75% reinstatement grants, i.e. a maximum of £27,500 in total per property, doubled in the case of applications affecting two or more properties or properties with two street frontages;
    - (ii) to determine applications for requests for additional grants towards extra eligible costs incurred, so long as the overall grant does not exceed the limits stated above;
    - (iii) to make interim payments on grants exceeding £6,000;
    - (iv) to seek to recover grants only where it is evident that the grant assisted works have added value to the property, or where the applicant has directly benefited from the grant.
- (3) To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above.

### **13. Management of Establishments**

To manage the following establishments/sites:-

- (a) the Raceground (subject to the rights of The Brighton Racecourse Company Limited);
- (b) Volks Railway

### **14. Markets**

To exercise the Council's functions in respect of markets other than those owned by the Council.

### **15. Building Control**

To exercise the Council's functions regarding building control.

### **16. Miscellaneous**

To exercise the Council's functions in respect of:-

- (1) Coastal protection.
- (2) Allotments and smallholdings.
- (3) Numbering of housing and naming of streets.

### **17. Environmental Health**

- (1) To exercise the Council's functions in respect of environmental health matters including the functions listed under Part 1 of **Schedule 1** to this Scheme of Delegations.
- (2) To exercise the power to issue notices in respect of environmental health matters, including, but not limited to, those listed under Part II of **Schedule 1** to this Scheme of Delegations.
- (3) To exercise the Council's functions under the Acts listed in Part II of **Schedule 1** to this Scheme of Delegations

### **18. Licensing and Registration**

- (1) To exercise the functions of the Council in relation to licensing and registration, including but not limited to functions under the Licensing Act 2003 and the Gambling Act 2005 to the extent that such functions may be delegated to an officer under those Acts.
- (2) To exercise the power to grant licences, permits, consents or registrations, as the case may be, in relation to the Council's licensing and registration functions including those listed in **Schedule 2** to this Scheme of Delegations.

- (3) The power to grant licences etc. under (1) and (2) above shall not apply:-
- (i) where the granting of the licence would be contrary to any existing policy of the Council, provided that the above qualification shall not apply where the Council has no power to refuse applications.
  - (ii) in relation to the following matters under the Licensing Act 2003:-
    - (a) the determination of an application for a premises licence where representations have been made;
    - (b) the determination of an application for a provisional statement where representations have been made;
    - (c) the determination of an application for variation of a premises licence where representations have been made;
    - (d) the determination of an application to vary the designated premises supervisor following Police objections;
    - (e) the determination of an application for the transfer of a premises licence following Police objections;
    - (f) consideration of a Police objection made to an interim authority notice;
    - (g) the determination of an application for a club premises certificate where representations have been made;
    - (h) the decision to give counter notice following Police objections to a temporary event order;
    - (i) the determination of an application for the grant of a personal licence following Police objections.
  - (iii) In relation to the following matters under the Gambling Act 2005:-
    - (a) the determination of an application for a premises licence where representations have been made and not withdrawn;
    - (b) the determination of an application for a variation of a premises licence where representations have been made and not withdrawn;

- (c) the determination of an application for the transfer of a premises licence where representations have been received from the Commission;
  - (d) the determination of an application for a provisional statement where representations have been received and not withdrawn;
  - (e) the determination of an application for a review of a premises licence;
  - (f) the determination of an application for club gaming / club machine permits where objections have been made;
  - (g) the cancellation of club gaming / club machine permits;
  - (h) the decision to give a counter notice to a temporary use notice.
- (4) Where, in the opinion of the Strategic Director, after consultation with the Chair of the Licensing Committee, the application is considered to be a major application, having regard to licensing objectives, the matter may be referred to the full Licensing Committee. Major applications which are unopposed may be dealt with under officer delegated powers.
- (5) The power to grant licences under sub-paragraphs (1) and (2) above shall include the power to renew, transfer, vary, refuse, suspend or revoke such licence, registration etc. and the power to impose conditions.

## **19. Trading Standards**

- (1) To exercise the Council's functions with regard to trading standards.
- (2) Without prejudice to the generality of (1) above, to discharge the Council's functions under the legislative provisions listed under **Schedule 3** to this Scheme of Delegations.

## **20 Neighbourhood Renewal**

To exercise the Council's functions in respect of neighbourhood renewal, which include:-

- (a) Developing and implementing the neighbourhood renewal strategy for the City in order to narrow the gap between the most deprived neighbourhoods and the rest of the City, under the themes set by national Government of: housing, health, liveability, crime, education and employment and
- (b) acting as the accountable body for the neighbourhood renewal fund on behalf of the Local Strategic Partnership.



## **21. Economic Development and European Union**

### **(1) Economic Development and Regeneration**

To co-ordinate and arrange for the discharge of the Council's functions under Part III of the Local Government and Housing Act 1989 and all other functions relating to economic development and regeneration.

### **(2) European Union**

To be the proper officer for authorising submissions under the European Commission programmes on behalf of the Council as a whole, as opposed to individual services.

## **22. Housing Related Support Services**

To exercise the Council's functions for the commissioning of housing related support services.

## **23. Housing**

### **(1) General**

To manage the Council's housing services.

### **(2) Housing Revenue Account (H.R.A.) Properties**

(a) To manage property within the Housing Revenue Account and associated property;

(b) Without prejudice to (a) above, exercise the housing functions listed in **Schedule 5** to this Scheme of Delegation.

### **(3) Right to Buy**

To administer the right to buy scheme.

### **(4) Housing Strategy**

(a) To exercise the Council's functions as a local housing authority.

(b) Without prejudice to (a) above, to exercise the Council's functions in respect of the preparation and development of the Council's housing strategy including the housing investment programme.

(5) **Homelessness and Allocations**

To discharge the Council's functions regarding homeless persons under the Homelessness legislation, and exercise the Council's functions regarding the allocation of dwellings generally, including the Council's functions under Part VI of the Housing Act 1996.

(6) **Housing Grants**

To carry out the Council's functions in relation to grants for the improvement and repair of housing under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 and earlier and any later grants legislation.

(7) **Standards of Housing**

- (a) To exercise the Council's functions regarding standards of housing in its area.
- (b) Without prejudice to the generality of (a) above, the Strategic Director shall have the power to deal with the enforcement of housing standards additional control measures in residential accommodation and licensing of houses in multiple occupation, selective licensing of other residential accommodation and overcrowding under the Housing Act 2004 and all other relevant legislative provisions, provided that any decision involving the making of demolition orders and prohibition orders, but not Emergency Prohibition Orders under sections 43 and 44, shall not be taken unless the Chair of the Housing Committee and the Monitoring Officer have been consulted and have no objections.
- (c) Without prejudice to the generality of (a) above, to serve enforcement notices or take other appropriate action under statutory provisions for the abatement of nuisances or requiring works to be done to remedy nuisances, hazards to health or other matters in residential premises.

(8) **Tenancy Relations**

To exercise the Council's functions regarding tenancy relations and in particular the Council's functions under the Protection from Eviction Act 1977 and the Landlord and Tenant Act 1985.

(9) **Housing Advice**

To discharge the Council's functions regarding the provision of advice on housing matters and the publication of information.

(10) **Access to Personal Files**

To exercise the Council's functions regarding access to personal files or information under the Data Protection Act 1998.

(11) **Licensing and Registration of HMOs**

To exercise the Council's functions regarding the licensing of Houses in Multiple Occupation under the Housing Act 2004 and any other relevant legislation and the maintenance of all registers required in respect of licensing, Housing Notices and Orders and Interim and Final Management Orders and Empty Dwelling Management Orders.

(12) **Power to issue Notices**

- (a) To issue and sign Notices of Seeking Possession and Notices to Quit in relation to any secure or non-secure housing tenancies.
- (b) To issue and sign statutory notices that relate to private sector residential properties and to exercise the Council's functions under the following Acts:-

Housing Act 1985 Parts VI, VIII, IX, X, XI, XVI;

Housing Act 1996 Part II;

Housing Grants, Construction and Regeneration Act 1996 Parts 1 and V;

Local Government (Miscellaneous Provisions) Act 1976 ss. 16 and 33;

Local Government (Miscellaneous Provisions) Act 1982 s.29;

Public Health Act 1936 ss.45,48,49,83,84 and 275;

Public Health Act 1961 ss. 17 and 22;

Building Act 1984 ss. 59, 64,66,67,70,72,76,84 and 97;

Environmental Protection Act 1990 Parts III and IX;

Prevention of Damage by Pests Act 1949 s.4;

Health and Safety at Work, etc. Act 1974 s.4;

Housing Act 2004 Parts 1, 2, 3, 4, Part 6 section 216 only, Part 7.

## **VI DELEGATIONS TO STRATEGIC DIRECTOR OF COMMUNITIES**

### **General Delegations**

To exercise the Council's functions regarding communities, culture, arts, tourism and venues and, without prejudice to the generality of the foregoing, to exercise the following functions:-

#### **1. Tourism**

- (1) To exercise the Council's functions regarding tourism.
- (2) To provide publicity and information services for the promotion of Brighton and Hove as a major tourist, conference, exhibition and holiday centre including the planning and execution of publicity and advertising schemes, the preparation and dissemination of guides and similar publications, and co-operation with national, regional and local bodies in all these matters.

#### **2. Arts and Creative Industries**

- (1) To exercise the Council's functions regarding arts, entertainments and creative industries.
- (2) To make arrangements for the sale or issue of tickets for concerts, plays and similar events.
- (3) To manage the relationship with the Dome Operating Company and the Brighton Festival Trust.

#### **3. Management of Establishments**

To manage the following establishments/sites:-

- (a) the Royal Pavilion and Grounds;
- (b) all libraries, museums and art galleries belonging to the Council;
- (c) The Grange, Rottingdean;
- (d) Preston Manor;
- (e) West Blatchington Windmill and Foredown Countryside Centre;
- (f) Portslade Old Manor House, Portslade;
- (g) all leisure facilities, including the King Alfred Leisure Centre, the Prince Regent Swimming Pool, Stanley Deason Sports Centre and Moulescoomb Community Leisure Centre.

#### **4. Libraries**

To exercise the functions of the Council in relation to libraries and in particular the power to:-

- (a) fix the opening and closing hours of libraries;
- (b) set the fees and charges made by the Business Information Services;
- (c) take such other steps as appear to the Strategic Director to be necessary or conducive to the effective and efficient running of the library service.

#### **5. Venues**

(1) To manage the following establishments/sites:-

- (a) the Brighton Centre;
- (b) Hove Town Hall (excluding office accommodation and Mayoral Suite);

(2) To manage the relationship with the Dome Development Company (Devco) and matters in relation to the Dome complex.

#### **6. Archives**

To exercise the Council's functions regarding the custody and maintenance of the Council's historical documents and records.

#### **7. Communities & Equality**

(1) To manage community and voluntary sector discretionary grants, as follows:-

- (a) In relation to the Three Year Corporate Grant Programme, to process applications for grants from communities and non-profit making bodies in the area of the Council and make recommendations to the Policy & Resources Committee.
- (b) In relation to all other grants administered by the Strategic Director (including grants to smaller organisations, specialist programme grants, community development grants and Global Grants), to receive, commission and process grant applications and to approve grants after consultation with either (i) the Chair of the Members' Advisory Group for grants of £3,000 or less, or (ii) the Members' Advisory Group for grants in excess of £3,000.

- (2) To develop the Council's approaches to tackling inequality and discrimination both within the Council as an employer and across the city.

## **8. Seafront**

- (1) To exercise the Council's functions regarding the seafront.
- (2) Without prejudice to above, to deal with:-
  - (a) applications for permission to hold competitions, regattas, barbecues and similar events on or from the esplanade, beach or foreshore (including the power to impose conditions in relation thereto);
  - (b) the grant, renewal, transfer, variation, refusal, suspension or revocation of licences, permits, consents or registrations, as the case may be, in relation to trading on the esplanade beach and foreshore;
  - (c) the storage of boats on the beach, the letting of the beach station, the licensing of boats and boatmen, the granting of rights appertaining to beach lockers and winches and similar matters (including the granting of licences and entering into agreements and the termination of such licences and agreements);
  - (d) the granting of site licences for beach huts, entering into agreements for the letting or hiring of the Council's beach chalets and the termination of such licences and agreements;
  - (e) the exercise of the Council's functions under the East Sussex Act 1981 Section 12 (removal of boats);
  - (f) the temporary closure of part of Madeira Drive Brighton for special events.

## **9. Community Safety and Drug Action Team**

- (1) To exercise the functions of the Council in relation to Community Safety and in particular the power to:-
  - (a) co-ordinate the Council's functions regarding the police and public safety and to take such corporate action as is necessary, including:-
    - (i) making the consultative arrangements under the Police Act 1996;
    - (ii) drawing up community safety plans;

- (iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and disorder and the making of child curfew schemes.
  - (b) To take any action or steps under the Crime and Disorder Act 1998, the Criminal Justice and Police Act 2001, the Anti Social Behaviour Act 2003 and such other legislation as appears necessary in the interests of the Council and in accordance with the Council's community safety, youth crime and other safer streets strategies.
- (2) To exercise the Council's functions regarding drug and substance misuse.

#### **10. Events**

To organise and manage recreational activities and events on Council owned land including parks and open spaces.

#### **11. Leisure**

- (1) To exercise the Council's functions regarding leisure.
- (2) To manage the esplanade, beach and foreshore, the seafront lawns and lagoon.
- (3) To organise and manage programmes of public entertainment on land and buildings under the Strategic Director's management or by arrangement with third parties.

## **VII DELEGATIONS TO DIRECTOR OF PUBLIC HEALTH**

### **1. General**

To provide advice and support to the Council on issues of public health.



## **DELEGATIONS TO HEADS OF DELIVERY UNITS**

Each Head of a Delivery Unit set out at sections VIII to XII below has power to exercise the functions of the Council listed in respect of his / her Unit for the purposes of delivering (as opposed to commissioning) the services for which he / she is responsible.

### **VIII DELEGATIONS TO HEAD OF CITY SERVICES**

1. The functions as set out in section 8 of the delegations to the Strategic Director for Resources, namely:-
  - (a) Local Taxation Services
  - (b) Housing Benefit and Council Tax Benefit
  - (c) Local Land Charges
  - (d) Registration Service
  - (e) Travel Concessions
  - (f) Electoral Registration and Elections
  - (g) Coroner's Service
  - (h) Bereavement Services
  - (i) Appointment of Authorised Officers
  - (j) Access Services
2. The Council's functions regarding school admissions.
3. The management of the Council's Library Services as set out in section 4 of the delegations to the Strategic Director for Communities.

### **IX DELEGATIONS TO HEAD OF PLANNING AND PUBLIC PROTECTION**

1. The Council's functions comprised in the delegations to the Strategic Director of Place under sections 1-2, 10-15 and 17-21 inclusive, namely:-
  - (a) Environmental Awareness
  - (b) National Parks
  - (c) Land Use Planning
  - (d) Town and Country Planning
  - (e) Conservation and Design
  - (f) Management of Establishments
  - (g) Markets
  - (h) Building Control
  - (i) Environmental Health
  - (j) Licensing and Registration
  - (k) Trading Standards
  - (l) Neighbourhood Renewal
  - (m) Economic Development and European Union
2. The Council's functions regarding community safety as set out in section 9 of the Delegations to the Strategic Director of Communities.

3. The Council's functions regarding emergency planning services as set out in section 9 of the Delegations to the Strategic Director for Resources.

#### **X DELEGATIONS TO HEAD OF TOURISM AND LEISURE**

1. The Council's functions set out in sections 1-3, 5, 6, 8, 10 and 11 of the delegations to the Strategic Director for Communities, namely:-
  - (a) Tourism
  - (b) Arts and Creative Industries
  - (c) Management of various establishments listed under paragraph 3 of the delegations to the Strategic Director for Communities
  - (d) Venues
  - (e) Archives
  - (f) Seafront
  - (g) Events
  - (h) Leisure

#### **XI DELEGATIONS TO HEAD OF CITY INFRASTRUCTURE**

1. The Council's functions set out under the delegations to the Strategic Director of Place under sections 1-3, 5-9 and 16, namely:-
  - (a) Environmental Awareness
  - (b) National Parks
  - (c) Parks and Green Spaces
  - (d) Highways
  - (e) Traffic Management
  - (f) Parking Management
  - (g) Transport
  - (h) Waste Management Control
  - (i) Coastal Protection
  - (j) Allotments and smallholdings
  - (k) Numbering of housing and naming of streets

#### **XII DELEGATIONS TO HEAD OF HOUSING & SOCIAL INCLUSION**

1. Housing

The Council's functions regarding housing management including those set out in section 23 of the delegations to the Strategic Director of Place, namely:-

- (a) To manage the Council's housing services insofar as they relate to Council owned dwellings used for housing purposes;

- (b) To manage property within the Housing Revenue Account and associated property;
- (c) Without prejudice to (b) above, to exercise the Council's housing functions listed in **Schedule 5** to this Scheme of Delegations.

2. Travellers and Gypsies

The Council's functions set out in section 4 of the delegations to the Strategic Director of Place, namely functions regarding travellers and gypsies, including management of authorised sites.

**PART 6.4**

**PART C. REFERRED FUNCTIONS**

**ALL OFFICERS WITH DELEGATED FUNCTIONS**

1. Each function of the Council delegated or referred to a Committee or Sub-Committee of the Council and not delegated to an officer shall be a referred function of the Strategic Director dealing with that area of service. The Strategic Director shall give advice and report to Members as appropriate.

## **PART 6.5 - SCHEDULES**

### **SCHEDULE 1**

#### **Part I**

#### **Functions delegated to the Strategic Director of Place and Head of Planning & Public Protection**

- (1) Statutory and Public Nuisances.
- (2) Control of Noise.
- (3) Control of Air Pollution.
- (4) Contaminated Land.
- (5) Prevention of Damage by Pests.
- (6) The provision, management and control of Cemeteries, Mortuaries and Crematoria and the discharge of the Council's functions relating to burials and cremation generally.
- (7) The provision, management and control of public toilets.
- (8) Food, Drinking Water, Food Hygiene and associated matters.
- (9) Functions in connection with the Welfare and Control of Animals.
- (10) Control of Diseases and General Public Health matters.
- (11) Drains and private sewers and any other environmental health functions in relation to sewerage, water or seawater (by arrangement with the service operators if appropriate).
- (12) Health and Safety at Work.
- (13) Provisions relating to shops including Sunday trading.
- (14) Hazardous Substances.
- (15) Slaughterhouses, Knackers Yards and Cutting Premises.
- (16) Port Health.

## Part II

### Functions delegated to the Strategic Director of Place and Head of Planning & Public Protection

Legislative provisions under which notices may be served

- (1) Local Government (Miscellaneous Provisions) Act 1976 ss. 16 and 33.
- (2) Local Government (Miscellaneous Provisions) Act 1982 s.29.
- (3) Public Health Act 1936 ss.45, 48, 49, 83, 84 and 275.
- (4) Public Health Act 1961 ss. 17 and 22.
- (5) Building Act 1984 ss. 59, 64,66,67,70,72,76,84 and 97.
- (6) Environmental Protection Act 1990 Parts III and IX.
- (7) Food Safety Act 1990.
- (8) Prevention of Damage by Pests Act 1949 s.4.
- (9) Health and Safety at Work, etc. Act 1974.
- (10) Noise Act 1996.
- (11) Anti-Social Behaviour Act 2003.
- (12) Clean Neighbourhoods and Environment Act 2005.
- (13) Animal Welfare Act 2006.
- (14) Health Act 2006.

## **SCHEDULE 2**

### **Licensing and Registration Functions delegated to the Strategic Director of Place and Head of Planning & Public Protection**

NOTE. The list below lists Licensing Act 2003, Gambling Act 2005 and other functions.

- (1) Functions under the Licensing Act 2003 relating to :-
  - (a) Personal Licences;
  - (b) Premises Licences;
  - (c) Club Premises Certificates;
  - (d) Temporary Event Notices.
- (2) Functions under the Gambling Act 2005 relating to:-
  - (a) Premises Licences;
  - (b) Provisional Statements;
  - (c) Club gaming / club machine permits;
  - (d) Applications for other permits under the Gambling Act 2005;
  - (e) Consideration of temporary use notice.
- (3) Acupuncture, tattooing, ear-piercing and electrolysis.
- (4) Animals, including boarding establishments, dangerous wild animals, dog breeding, guard dogs, performing animals, pet shops, riding establishments and under the Game Act 1831.
- (5) Betting tracks.
- (6) Camp sites and control of movable dwellings.
- (7) Caravan sites.
- (8) Charities for disabled persons and war charities.
- (9) Cinemas.
- (10) Contaminated land.
- (11) Dairies, dairymen and milk distributors.
- (12) Explosives.

- (13) Filling materials and premises used for upholstering, stuffing, lining of bedding, toys etc.
- (14) Food Safety Act 1990 Section 19 functions and functions dealing with food premises.
- (15) Hackney carriages and private hire vehicles and their drivers and operators.
- (16) House to house collections and other collections for charity.
- (17) Late night refreshment houses, night cafes and take away cafes.
- (18) Lotteries, gaming, pool promotion etc.
- (19) Nurses agencies.
- (20) Omnibuses.
- (21) Petroleum.
- (22) Poisons
- (23) Public entertainment licences and private places of entertainment.
- (24) Door Supervisors.
- (25) Riding establishments.
- (26) Scrap metal dealers.
- (27) Sex establishments.
- (28) Sports grounds.
- (29) Street trading
- (30) Street collections.
- (31) Theatres.
- (32) Zoos.



### **SCHEDULE 3**

#### **Trading Standards Functions delegated to the Strategic Director of Place and the Head of Planning & Public Protection**

Accommodation Agencies Act 1953  
Administration of Justice Act 1970 as amended  
Agricultural Produce (Grading and Marking) Amendment Act 1931  
Agricultural Produce (Grading and Marking) Act 1928  
Agriculture Act 1970  
Agriculture (Miscellaneous Provisions) Act 1968  
Animal Health Act 1981  
Business Names Act 1985  
Children and Young Persons Act 1933 as amended by the Protection of Children (Tobacco) Act 1986  
Children and Young Persons (Protection from Tobacco) Act 1991  
Clean Air Act 1993  
Consumer Credit Act 1974  
Consumer Protection Act 1987  
Consumer Protection from Unfair Trading Regulations 2008  
Copyright Designs and Patents Act 1988  
Criminal Attempts Act 1981  
Development of Tourism Act 1969  
Education Reform Act 1988, Sections 214 and 215  
Energy Act 1976  
Energy Conservation Act 1981  
Environmental Protection Act 1990  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Acts 1875 and 1923  
Explosives (Age of Purchase &c) Act 1976  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Food Safety Act 1990  
Food and Environment Protection Act 1985  
Forgery and Counterfeiting Act 1981  
Hallmarking Act 1973  
Health and Safety at Work etc. Act 1974  
Intoxicating Substances (Supply) Act 1985  
Malicious Communications Act 1988  
Medicines Act 1968  
Mock Auctions Act 1961  
Motor Cycle Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991  
Nurses Agencies Act 1957  
Poisons Act 1972  
Prices Acts 1974 and 1975  
Property Misdescriptions Act 1991  
Protection of Animals Act 1911  
Regulation of Investigatory Powers Act 2000  
Road Traffic Acts 1988 and 1991  
Road Traffic Regulation Act 1984  
Road Traffic (Foreign Vehicles) Act 1972

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Solicitors Act 1974 as amended by the Administration of Justice Act 1985  
Telecommunications Act 1984  
Theft Acts 1968 and 1978  
Timeshare Act 1992  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Trading Representations (Disabled Persons) Act 1958  
Trading Representations (Disabled Persons) Amendment Act 1972  
Trading Stamps Act 1964  
Unsolicited Goods and Services Act 1971  
Unsolicited Goods and Services Amendment Act 1975  
Video Recordings Act 1984  
Weights and Measures Act 1985

## SCHEDULE 4

### Functions delegated to the Strategic Director of Place and the Head of Planning & Public Protection in relation to Planning

#### Part I

- (1) To determine planning applications (including identifying the need for and the settling of terms of Planning Obligations under S106 of the Town and Country Planning Act 1990, the imposition of conditions where consent is granted and the renewal of existing permissions) where the applications relate to the following categories of development:-
  - (i) alterations/extensions to single dwellinghouses and buildings containing residential flats;
  - (ii) works within the curtilage of buildings which are incidental to their lawful use;
  - (iii) changes of use;
  - (iv) applications submitted pursuant to Article 4 Directions;
  - (v) alterations to or installation of shop fronts;
  - (vi) the provision of no more than 9 new dwelling units (net increase), either by the construction of new buildings or by conversion of existing buildings;
  - (vii) extensions and alterations to non-residential buildings;
  - (viii) applications relating to the formation of accesses, fire escapes, replacement windows, flag poles, the erection of and alterations to walls, fences or other means of enclosure, floodlights, radio and TV masts, telecommunications apparatus, material changes to the external appearance of buildings, including extensions;
  - (ix) renewals of temporary permissions;
  - (x) applications to vary or delete conditions attached to planning permissions;
  - (xi) all other minor planning applications not referred to above.
- (2) Applications for consent under the Advertisements Regulations.
- (3) Applications for Conservation Area Consent.
- (5) Applications for Listed Building Consent.

- (6) To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above.

## **Part II**

- (1) To determine applications for certificates of lawfulness of existing or proposed uses or development under Sections 191 and 192 of the Town and Country Planning Act 1990.
- (2) To make Tree Preservation Orders and Provisional Tree Preservation Orders and, unless valid objections are received, to confirm such orders in accordance with statutory requirements.
- (3) To determine applications for works to, and the felling of, trees included in Tree Preservation Orders and in Conservation Areas.
- (4) After consultation with the Head of Legal and Democratic Services:-
  - (a) to take enforcement action including the service of formal Notices (including all preparatory work thereto and the service of planning contravention notices) and to authorise the institution of legal proceedings where necessary;
  - (b) to authorise the removal of enforcement notices from the Local Land Charges Register where appropriate.
- (5) To determine detailed and reserved matters submissions pursuant to conditions on planning permissions.
- (6) To determine applications for non-material amendments to approved schemes.
- (7) To determine applications for Certificates of Appropriate Alternative Development pursuant to Section 17 of the Land Compensation Act 1961.
- (8) To determine on behalf of the Council whether the prior approval of the Authority will be needed for the method whereby any proposed demolition is to be carried out and the details of any proposed restoration of the site.
- (9) To submit observations on behalf of the Local Planning Authority in respect of consultations (on planning matters) by government departments, other local authorities, local government associations and statutory or regulatory bodies.

- (10) To determine on behalf of the Council applications for determination as to whether prior approval is required for the siting and appearance of development consisting of the construction, installation, alteration or replacement of telecommunications masts and associated equipment.
- (11) To exercise the Council's functions in respect of Environmental Impact Assessment screening / scoping under The Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 2011 and in respect of the Environmental Assessment of Plans and Programmes Regulations 2004.
- (12) To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above.

## **SCHEDULE 5**

### **Functions delegated to the Strategic Director of Place and the Head of Housing & Social Inclusion in respect of HRA properties**

The power to:-

- (1) Grant tenancies.
- (2) Deal with applications for consent to assign.
- (3) Fix rents for specific properties (any decision to raise rents generally shall be referred to the Housing Committee).
- (4) Serve notices of seeking possession and notices to quit.
- (5) Arrange for the repair and maintenance of properties.
- (6) Issue consents, permits etc. to tenants for works and deal with other requests for consent presented to the Council as a landlord.
- (7) Make payments in appropriate cases for removal expenses and compensation for improvements or disrepair not exceeding £1000 or such other sum as may from time to time be fixed by statute or by the Strategic Director after consultation with the Chair of Housing Committee.
- (8) Manage and supervise the Council's tenants' participation scheme and undertake such other consultation with tenants as may be necessary.
- (9) To exercise the Council's functions under the Crime and Disorder Act 1998 as appears necessary in the interests of the Council's housing land and/or tenants and in accordance with the Council's community safety and youth crime strategies.

## **SCHEDULE 6**

### **Functions delegated to the Strategic Director of Resources and the Head of City Services in relation to Local Taxation**

#### **(1) Non-Domestic Rates**

To exercise the functions of the Council under the Local Government Finance Act 1988 and Regulations made thereunder in connection with the administration, collection and enforcement of non-domestic rates including, but not limited to:-

- (a) the issuing of demand notices and reminders;
- (b) issuing proceedings for a liability order;
- (c) taking all enforcement actions including attachment of earnings, levying of distress, application for a charging order and petitions for bankruptcy/winding up;
- (d) without prejudice to the provisions of paragraph 4 of Part A the authorisation of officers for specific purposes where such authorisation is required by legislation or under any rule of law including (but not limited to) authorisation to levy distress or otherwise act as bailiffs;
- (e) the authorisation of outside agents to levy distress on behalf of the Council;
- (f) the granting of discretionary relief in accordance with the policies of the Council.

#### **(2) Council Tax**

To exercise the functions of the Council under the Local Government Finance Act 1992 and Regulations made thereunder in connection with the administration, collection and enforcement of the Council Tax (provided that this power shall not include the functions of the Council regarding the setting of the Council Tax Base and the level of Council Tax itself), including but not limited to:-

- (a) the issuing of demand notices and reminders;
- (b) issuing proceedings for a liability order;
- (c) taking all enforcement actions including attachment of earnings, levying of distress, application for a charging order and petitions for bankruptcy/winding up;

- (d) without prejudice to the provisions of paragraph 4 of Part A the authorisation of officers for specific purposes where such authorisation is required by legislation or under any rule of law including (but not limited to) authorisation levy distress or otherwise act as bailiffs and authorisation to make attachment of earnings orders;
- (e) the authorisation of outside agents to levy distress on behalf of the Council;
- (f) the granting of discretionary relief in accordance with the policies of the Council.

**(3) Power to issue notices**

In addition to the Strategic Director of Resources and Head of City Services, the Head of Revenues and Benefits and the Revenues Manager are authorised to issue and sign the necessary documents and institute proceedings in the Magistrates' Court for the recovery of, or in connection with the recovery of Non Domestic Rates and Council Tax.

[NOTE - such authorisation shall not include authorisation to appear as an advocate in the Magistrates' Court which shall be given by the Monitoring Officer at the request of the Strategic Director of Resources or Head of City Services]

**(4) General Rates and Community Charge**

To deal with any unresolved matter concerning the Community Charge under the Local Government Finance Act 1988 and Rates under the General Rate Act 1967 including the exercise of all the functions detailed under 1(1) and (2) above as they apply to the Community Charge and General Rates.



## SCHEDULE 7

### Highways functions delegated to the Strategic Director of Place and the Head of City Infrastructure

- (1) To authorise:-
  - (a) the erection and siting of buildings or structures or the carrying out of works:-
    - (i) within, over or under the highway;
    - (ii) in front of the prescribed building line;
    - (iii) private works over or under the public highway, subject to securing appropriate bonding arrangements and commuted maintenance payments.
  - (b) interference with or obstruction to highways; and
  - (c) the grant of permissions and licences.
- (2) Without limiting the scope of paragraph (1) above, to exercise the Council's functions in relation to licences and permits under the Highways Act 1980, section 115A to K (amenities on the highway), section 139 (control of builders' skips), section 169 (control of scaffolding and hoardings) and section 171 (control of builders' material etc).
- (3) To exercise the functions of the council under Part 3 of the Traffic Management Act 2004
- (4) To exercise the functions of the council under Part 3 of the New Roads and Street Works Act 1991 (as amended).
- (5) To exercise the Council's functions regarding Civil Parking Enforcement.
- (6) After consultation with the Monitoring Officer and local Members (save in the case of temporary traffic restrictions) to make, give consent to or object to the making of, apply for or confirm any order under the provisions of the Highways Act 1980, the Wildlife and Countryside Act 1981, the Road Traffic Regulation Act 1984, the Town and Country Planning Act 1990, the Parking Act 1989 the Traffic Management Act 2004, the Town Police Clauses Act 1847 and the Rights of Way Act 1990.
- (7) To approve, from time to time, a schedule of prospectively maintainable highways under the New Roads and Street Works Act 1991.

- (8) To authorise the entering into of agreements with the developers under Section 38 of the Highways Act 1980 and to exercise the functions of the Council with respect to the formal adoption of private streets generally.
- (9) To authorise entry onto any land for the purpose of survey and to place or leave on or in that land any apparatus for use in connection with that survey.
- (10) To exercise the discretionary functions of the Council under the Land Compensation Act 1973 (as amended) and the Noise Insulation Regulations subject to a maximum limit of £5000.
- (11) After consultation with the Monitoring Officer to serve notices of exemption from the Advance Payments Code (Private Street Works) in appropriate cases where this would not prejudice the Council.
- (12) To object, when appropriate on highway grounds, to applications to licensing authorities.
- (13) To undertake the functions of the Council as enforcement authority under the Reservoirs Act 1975, including the service of formal notices and the authorisation of legal proceedings.
- (14) To exercise the functions of the Council in relation to (a) the interference with, or obstruction to, any highway, or (b) any nuisance on any highway or land adjoining a highway.

## PART 6.6 LIST OF STATUTORY AND PROPER OFFICERS

### 1. Statutory Officers

Legislation requires local authorities to appoint certain officers with statutory responsibilities. These appointments and the officer to whom the Council has allocated responsibility are listed below.

Title / Description (and statutory derivation)	Officer Appointed
<b>1. Head of Paid Service</b> (S4 Local Government & Housing Act 1989)	<b>Chief Executive</b>
<b>2. Monitoring Officer</b> (S5 Local Government & Housing Act 1989)	<b>Head of Legal &amp; Democratic Services</b>
<b>3. Officer responsible for financial administration</b> (S151 Local Government Act 1972)	<b>Director of Finance</b>
<b>4. Electoral Registration Officer and Returning Officer</b> (Sections 8, 28 and 35 Representation of the People Act 1983)	<b>Chief Executive</b>
<b>5. Chief Education Officer</b> (Section 532 Education Act 1996)	<b>Strategic Director of People</b>
<b>6. Director of Children's Services</b> (Section 18 Children Act 2004)	<b>Strategic Director of People</b>
<b>7. Director of Adult Social Services</b> (Section 6 Local Authority Social Services Act 1970)	<b>Lead Commissioner Adult Social Care &amp; Health</b>
<b>8. Scrutiny Officer</b> (Section 21ZA Local Government Act 2000)	<b>Head of Overview and Scrutiny</b>

## 2. Proper Officers

The following officers are appointed Proper Officer in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the Proper Officer.

### 2.1 The Chief Executive

#### Local Government Act 1972

Section	Proper Officer Function
83(1)-(4)	Accepting declarations of acceptance of office
84	Receiving resignations from office
88(2)	Convening a meeting of Council for election to vacant office of Chair
89(1)	Receiving notice of casual vacancy in office of councillor
Schedule 12, para 4(2)(b)	Signing the summons to a Council meeting

#### Local Government and Housing Act 1989

Section	Proper Officer Function
15-16	Appointment of Members to Committees in accordance with the wishes of the Group Leader or his/her representative

#### Registration Service Act 1953

Section	Proper Officer Function
9(1) and (2)	Appointment of interim superintendent registrar(s)
13(2)(h) and 13(3)(b)	Exercise of functions under the local scheme of organisation
20	Proper Officer to be subject to regulations made by Registrar General

### 2.2 Head of Legal and Democratic Services (

#### Local Government Act 1972

Section	Proper Officer Function
100(B)(2)	Circulation of reports and agendas
100(B)(7)	Supply of papers to the press
100C(2)	Preparation of summary of proceedings

100(D)(1)(a) 100(D)(5)(a)	Identification and compilation of background papers
100F(2)	Decision as to which documents be excluded from Member inspection
191(2)	Receiving applications from Ordnance Survey for assistance
225(1)	Deposit of documents pursuant to an order, Act or instrument of Parliament
229(5)	Certification of photocopies
234	Authentication of notices, orders or other documents
236(9)	Sending of copies of byelaws to relevant parish/community councils
238	Certification of byelaws
248	Keeping roll of freemen of the City
Schedule 12, para 4(3)	Receipt of notices as to address to which summons to Council meetings to be sent

### **2.3 Head of Human Resources and Organisational Development**

#### **Local Government and Housing Act 1989**

<b>Section</b>	<b>Proper Officer Function</b>
2	Holding the list of politically restricted posts

### **2.4 Director of Finance**

#### **Local Government Finance Act 1988**

<b>Section</b>	<b>Proper Officer Function</b>
116(1)	Notifying the external auditor of arrangements for a meeting to consider a report of the Chief Financial Officer

#### **Local Government Act 1972**

<b>Section</b>	<b>Proper Officer Function</b>
115(2)	Receipt of money due from officers
146(1)(a)-(b)	Declarations and certificates regarding securities

## 2.5 Other Proper Officer Appointments

With respect to the **Public Health (Control of Disease) Act 1984**, the Proper Officer shall be the person appointed by the Strategic Director of Place or by the Head of Planning & Public Protection as the Council's consultant in communicable disease control, or their nominated deputy in their absence.

With respect to **section 4 of the Housing Act 2004**, the Proper Officer shall be the person appointed by the Strategic Director of Place or by the Head of Housing & Social Inclusion as the Proper Officer for that provision, or their nominated deputy in their absence.

With respect to **Schedule 16 of the Local Government Act 1972** (Receipt of deposit lists of protected buildings), the Proper Officer shall be the person appointed by the Strategic Director of Place or the Head of Planning & Public Protection.

## **PART 7.1 ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, its Committees Sub-Committees and (subject to the Overview and Scrutiny Procedure Rules) public meetings of Scrutiny Review Panels and Policy Review Panels (together called “meetings”). They summarise the public’s rights to attend meetings and to inspect and copy documents, full particulars of which are contained in Part VA of the Local Government Act 1972.

### **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 only to the exceptions in these rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days’ notice of any of its meetings by posting details of the meeting at Brighton Town Hall and Hove Town Hall. Where meetings are called at short notice for reasons of urgency, notice of the meetings shall be given as soon as practicable.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE AND AT THE MEETING**

The Council will make copies of the agenda and all reports which do not contain confidential or exempt information available for public inspection at a designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item is added to the agenda. Where a report which does not contain confidential or exempt information is issued after the agenda has been sent out, the designated officer shall make such report available to the public as soon as the report is completed and sent to Councillors. The Council will make a reasonable number of copies of the agenda and of reports which do not contain confidential or exempt information available for use of members of the public present at the meeting.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and any reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available for public inspection copies of the following for six years after a meeting:

- (a) the minutes of the meeting, 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.

Also the Council will (subject to copyright of any person other than the Council) supply copies or extracts of any of the above on payment of such reasonable copying fee as may be required.

## **8. BACKGROUND PAPERS**

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

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

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

but do not include published works or those which disclose exempt or confidential information (as defined in Rule 9).

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

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers and (subject to copyright of any person other than the Council) supply a copy or an extract on payment of such reasonable copying fee as may be required.



**9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**9.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (defined at Rule 9.3 below) would be disclosed.

**9.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (defined at Rule 9.4 below) would be disclosed.

Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Schedule 1 Part 1 Article 6 of the Human Rights Act 1998 (“Right to a Fair Trial”) may be applicable. In such cases there is a presumption that the relevant part of the meeting will be held in public unless a partial or completely private hearing is deemed necessary for one of the reasons specified in Article 6. These reasons include cases where exclusion of the public is considered to be required in the interests of juveniles or for the protection of the private life of the parties.

**9.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the public disclosure of which is prohibited by or under any enactment or by the order of a Court.

**9.4 Meaning of exempt information**

Exempt information means information falling within the following 7 categories in column 1 below (subject to any qualifications in column 2 below):

Category	Qualifications
1. Information relating to any individual.	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>This includes contemplated as well as past or current activities.</p>	<p>Information within paragraph 3 is not exempt by virtue of paragraph 3 if it is required to be</p> <p>(a) registered under any one of the following:- the Companies Acts (as defined in section 2 of the Companies Act 2006), the Friendly Societies Acts of 1974 or 1992, the Industrial and Provident Societies Acts 1965 to 1978, or the Charities Act 2011 or</p> <p>(b) recorded in the public file of any building society under the Building Societies Act 1986.</p> <p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the Council or a Minister of the Crown and employees of, or officer-holders under the Council.</p> <p>Labour relations matter means—(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

<p>Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act) or (b) any dispute about a matter falling within paragraph (a).</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

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

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication". Also, where any report is excluded from the public on the basis that it contains exempt (rather than confidential) information, the report will be marked with the category of exempt information likely to be disclosed.

## **11. DISORDERLY CONDUCT ETC**

The public's rights of admission to meetings set out in the Rules above are subject to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

## **12. AUDIT AND STANDARDS COMMITTEES AND STANDARDS HEARING PANELS**

Where a meeting of the Audit and Standards Committee, or a Hearing Panel of the Audit and Standards Committee, is convened to consider certain specific types of reference from an Ethical Standards Officer under the provisions of the Local Government Act 2000, there are three further categories of exempt information to be added (without any qualifications) to the 7 categories in Rule 9.4 above. These are:-

7A. Information which is subject to any obligation of confidentiality;

7B. Information which relates in any way to matters concerning national security and

7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3) or 64(2) of that Act.

[Note:- A new standards regime is being introduced and the provisions of the Local Government Act 2000 relating to standards are due to be repealed. It is likely that paragraphs 7A, 7B and 7C will cease to apply from 30 June 2012.]

## **13. THE COUNCIL'S COMMITTEE WORK PROGRAMME**

### **13.1 Contents of the Work Programme**

The Work Programme will be produced on an ongoing basis to cover all forthcoming Committee and Sub-Committee decisions. It will be updated monthly.

The Work Programme will contain matters which are believed will be the subject of decisions made at Committee meetings. Key decisions will be distinguished from other decisions. A "key decision" for the purposes of these rules is as defined in Article 11.03(b) of this Constitution.

## **13.2 Publication of the Work Programme**

The Work Programme will be published on the Council's website.

## **13.3 Exempt & Confidential Information**

Exempt information need not be included in the Work Programme and confidential information cannot be included.

## **14. REPORT TO COUNCIL**

### **14.1 When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not included in the Work Programme the committee may require the submission of a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by (the chair or any 3 members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

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### **14.2 Reports to Council**

Where, in accordance with Rule 14.1, an overview & scrutiny committee require the submission of a report to the Council, the Committee or Sub-Committee will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 10 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Committee or Sub-Committee is of the opinion that it was not a key decision the reasons for that opinion.

## **15. RECORD OF DECISIONS**

After any meeting of a Committee or Sub-Committee, whether held in public or private, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflicts of interest declared and any dispensation granted by the Audit and Standards Committee.

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

### **16.1 Rights to copies**

Subject to Rule 16.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of Committees or Sub-Committees and which contains material relating to any

business transacted at a public or private meeting of the Committee or Sub-Committee

### **16.2 Limit on rights**

An overview and scrutiny committee will not be entitled to:

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

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

### **17.1 Material relating to previous business**

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

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser or assistant.

Subject to the advice of the Monitoring Officer, Members may in certain circumstances be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as Councillors.

Further guidance on Members' access to information is contained in the protocol for Member-Officer Relations.

### **17.2 Nature of rights**

These rights of a Member are additional to any other right he/she may have under the law.

## **PART 7.2 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The framework for decision-making**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 5. Once a budget or a policy framework is in place, it will be the responsibility of the Committees to implement it.

### **2. Process for developing the budget and policy framework**

Each year the Policy and Resources Committee will agree a programme for establishing the budget and policy framework for the following year. This programme will include provision for the Council to consider the recommendations of the relevant Committee(s) in respect of the content of the plans and strategies that make up the policy framework.

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

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by Committees or officers with delegated authority must be in line with it. However, in approving the policy and budgetary framework, the Council may specify the extent of virement within the budget (in accordance with the Financial Standing Orders and Regulations at Part 7 of this Constitution) and degree of in-year changes to the policy framework which may be undertaken by Committees. In approving any plan or strategy forming part of the policy framework the Council will consider whether or not to delegate the power to amend, modify or vary that plan or strategy. Any other changes to the policy and budgetary framework are reserved to the Council.

## PART 7.3 – FINANCIAL REGULATIONS

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## **1 INTRODUCTION**

### **1.1 Purpose of Financial Regulations**

The purpose of Financial Regulations is to provide a framework of control, responsibility and accountability for the proper administration of the council's financial affairs, to enable Members and officers to carry out their statutory duties. To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process is the establishment of Financial Regulations that set out the financial policies of the authority. A modern council should also be committed to innovation, within the regulatory framework, providing that the necessary risk assessment and approval safeguards are in place.

Sound financial management and control is the responsibility of all Members and officers and must be embedded in the culture of the authority. This requires effective training and support to enable Members and officers to achieve necessary financial management standards.

### **1.2 Reviewing and Updating Financial Regulations**

Financial Regulations need to be kept under review to ensure compliance with current legislation and keep pace with best practice developments. In particular, governance and performance frameworks are regularly updated and must be reflected in Financial Regulations. Changes to the constitution of the council may also need to be reflected in Financial Regulations.

The Director of Finance is responsible for maintaining a continuous review of Financial Regulations to ensure consistency with best practice and legislation and may make changes as appropriate but is required to submit any major changes to the Council for approval, after consultation with the Chief Executive and the Policy and Resources Committee.

The Audit Commission reviews the council's internal controls for evidence that these are effective, including Annual Governance Statements, Financial Regulations, schemes of delegation, policies, procedures and manuals. The Commission will be focusing on the impact of financial arrangements and the importance of having sound and strategic financial management to ensure that resources are available to support the council's priorities and improve services. The council's auditor also gives an opinion on arrangements for securing value for money in the annual Financial Statements.

### **1.3 Format of the Financial Regulations**

These regulations are in the format recommended by the Chartered Institute of Public Finance & Accountancy (CIPFA), and the Standard Financial Procedures set out in the appendices state why each procedure is important and include the responsibilities of the Chief Finance Officer and other Officers.

The Financial Regulations provide clarity about the financial accountabilities of individuals including:

the Council

its Committees and Sub-Committees

individual Members;

the Chief Executive;

the Monitoring Officer (in this council this role is held by the Head of Law);

the Chief Finance Officer (the Director of Finance); and

members of the Corporate Management Team.

#### **1.4 Status of Financial Regulations**

These Regulations form part of the council's constitution. The constitution brings together a wide range of information regarding how the council is organised, how its business is conducted and how its decisions are made. Beyond the scope of Financial Regulations, there are links with other internal regulatory documents within the constitution, such as contract standing orders, schemes of delegation and codes of conduct for officers and Members.

Financial Regulations are deemed to be part of the council's Procedure Rules in so far as they relate to the conduct of business in meetings of the Council, Committees, Sub-Committees and Scrutiny Committee/ Panels.

These Financial Regulations are subject to the Accounts and Audit Regulations 2011 issued by Government under s27 of the Audit Commission Act 1998. The Accounts and Audit Regulations establish statutory provisions for accounting arrangements, audit arrangements and financial control within the council, consistent with Audit Commission guidance, for example its publication *Improvement through better Financial Management*.

Financial Regulations endorse the Chartered Institute of Public Finance and Accountancy's "The Role of the Chief Financial Officer in Local Government" issued in 2010.

Both private and public sector enterprises need control frameworks to ensure their business objectives are met. Councils, however, by virtue of their major role as custodians and spenders of public money, must be seen to be carrying out these duties to the highest levels of integrity, probity, fairness and economy. Financial Regulations are an essential tool to ensuring compliance with both this duty of care and the financial objectives of the council, and set the appropriate standards of financial management and control expected by Council Tax payers and local business rate payers. These Regulations must be followed by all officers, therefore, to enable the council's external auditor to give assurance to these parties that the council can demonstrate compliance with the high levels of stewardship expected.

## **1.5 Application of Financial Regulations**

Financial Regulations apply to every Member and officer of the council and anyone acting on behalf of the council. Failure by an officer of the council to comply with these Financial Regulations may result in formal disciplinary action being taken against the officer concerned.

References to the Corporate Management Team in the regulations should be read as referring to officers authorised to act on behalf of the member of the Corporate Management Team. It is the responsibility of each member of Corporate Management Team to ensure that all financial processes and controls operated by their service comply with these regulations and to liaise with the Director of Finance on the adequacies of those controls. All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides good value for money.

Financial Regulations have an important role in establishing a sound system of corporate governance for the council and also in supporting the Council's Counter Fraud Strategy. Members of the Corporate Management Team have individual and collective responsibility to ensure that the fundamental principles as established by the Cadbury and Nolan Reports on "the financial aspects of corporate governance", namely openness, integrity, and accountability, are established through compliance with Financial Regulations.

Where local management schemes (LMS) have been approved, for example in schools, these shall have effect subject to the overall authority of these Financial Regulations and the council's Standing Orders. The Director of Finance may approve changes to any more-detailed financial regulations within approved local management schemes, again subject to their compliance with these Financial Regulations.

The Director of Finance is also responsible for reporting, where appropriate, breaches of the Financial Regulations to Members. Corporate Management Team are responsible for ensuring that all staff in their services are aware of the existence and content of these Regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their services, especially where staff do not have access to the council's intranet or electronic copies.

## **1.6 Standard Financial Procedures**

The Director of Finance is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the council are required to follow. Details of how the Regulations will be implemented operationally, are contained in the appendices to the Financial Regulations and are referred to as "Standard Financial Procedures". These establish sound practices and assist Corporate Management Team in their responsibility for the operation of their financial processes. These

Standard Financial Procedures have the same authority as Financial Regulations.

The Director of Finance may vary Standard Financial Procedures after consultation with the Chief Executive and Corporate Management Team in accordance with the needs of individual services. Provided the Director of Finance is satisfied that all necessary controls are met, he/she may agree to variations proposed by members of Corporate Management Team. Agreed variations must be properly recorded, in a form agreed by the Director of Finance.

## **1.7 Definitions**

Financial Regulations incorporate Financial Standing Orders and Standard Financial Procedures.

In Financial Regulations the following terms/roles have the following meanings:

‘Finance Director’, ‘Director of Finance’ and ‘Chief Finance Officer’ all have the same meaning for the purposes of Financial Regulations;

‘The S151 Officer’ is also the Chief Finance Officer. ‘The Deputy S151 Officer’ is the Head of Financial Services;

‘Strategic Directors’ include the Lead Commissioner for Adult Social Care & Health (in so far as it relates to his/her role as the Statutory Director of Adult Social Services);

‘Lead Commissioner’ and ‘Head of Commissioning Unit’ have the same meaning for the purposes of Financial Regulations;

‘Corporate Management Team’ (CMT) means the Chief Executive, Strategic Directors, the Director of Finance, Lead Commissioners and Heads of Resource and Delivery Units. By default, where Financial Regulations refer to Corporate Management Team this is a reference to the individual members of CMT unless it is expressly stated that CMT is referred to as a body or collective.

‘Strategic Leadership Board’ (SLB) means the Chief Executive, Strategic Directors and the Director of Finance.

‘Budget Holders’ and ‘Budget Managers’ have the same meaning and include any officer of the council given delegated responsibility by a member of Corporate Management Team for managing an approved budget.

For clarification, it should be noted that under the Scheme of Delegation to Officers, Heads of Delivery Units have concurrent delegated powers with their relevant Strategic Director for both general and specific delegations. As stated in the Scheme of Delegations to Officers, this means that the exercise of general and specific delegations by Heads of Delivery Units shall be subject to the following:

The power delegated to the Head of a Delivery Unit may be exercised by the relevant Strategic Director.

The exercise of the power by the Head of a Delivery Unit is subject to any instructions or guidance that may be issued from the Chief Executive or the relevant Strategic Director.

The relevant Strategic Director may suspend the exercise of any power by the Head of a Delivery Unit.

The exercise of the powers by the Head of Delivery Unit shall be subject to the outcome and other requirements stipulated as part of the commissioning decisions.

## **2 FINANCIAL MANAGEMENT**

Financial management covers all financial accountabilities in relation to the running of the council, including the policy framework and the council's budgets.

### **2.1 The Full Council**

The Full Council is responsible for adopting the council's constitution and Members' code of conduct, and for approving the policy framework and budget within which, committees and services operate. It is also responsible for approving and monitoring compliance with the council's overall framework of accountability and control. The framework is set out in its constitution.

The Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by, and decisions taken by, the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

### **2.2 The Committees**

The Policy and Resources Committee is responsible for proposing the policy framework and budget to the Full Council. That Committee together with the other committees are responsible for discharging council functions in accordance with the Constitution, the policy framework and budget. Decisions can be delegated to a committee, joint committee, sub-committee or an officer.

### **2.3 Overview and Scrutiny**

The overview and scrutiny committees support the work of the Committees and the council as a whole. Their purpose is as a force for improvement, in relation to the council and other external bodies that serve the city of Brighton and Hove. Although these committees cannot themselves implement policies and programmes, they have powers to take an overview of policy and to scrutinise decisions, before or after they have been implemented. They can require members, council officers and representatives of other organisations to attend and account for their policies and actions. The committees have access to the Council and the recommendations which flow from the overview and scrutiny processes must be given due consideration by the Committee or other person or body to whom they are directed.

### **2.4 Audit and Standards Committee**

This committee is established by the Full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. It also advises the council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code.

It also oversees the Council's arrangements for the discharge of its functions in connection with finance, risk management and audit. It also approves the annual financial statements. It makes recommendations to the Council, Officers or other relevant bodies within the Council.

## **2.5 The Statutory Officers**

### **Chief Executive**

**2.5.1** The Chief Executive is the Head of Paid Service and has overall corporate management and operational responsibility (including overall management responsibility for all officers). He/she must report to and provide information and advice to all parties in the decision making process. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping for all the council's decisions.

### **2.5.2 Monitoring Officer**

The role is held in this council by the Head of Law. This officer is responsible for discharging the Monitoring Officer functions under s5 of the Local Government and Housing Act 1989 and the Local Government Act 2000. He/she is responsible for promoting and maintaining high standards of conduct, and also for reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to committees. He/she is also responsible for compliance with access to meetings and records under the Local Government Acts 1972 and 2000, the function of certifying public interest under the Freedom of Information Act 2000 and ensuring that procedures for recording and reporting key decisions are operating effectively.

He/she must ensure that Committee decisions and the reasons for them are made public, and that council Members are also aware of those decisions and of those made by officers who have delegated responsibility.

The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.

The Monitoring Officer is responsible for advising Committees or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

### **2.5.3 Chief Finance Officer**

This role is held in this council by the Director of Finance. He/she has statutory duties in relation to the financial administration and stewardship of the council. This statutory responsibility cannot be overridden. The statutory duties are principally contained in:

s151 of the Local Government Act 1972;  
The Local Government Finance Act 1988;



The Local Government and Housing Act 1989;  
The Accounts and Audit Regulations 2011; and  
The Local Government Act 2003.

CIPFA's "Role of the Chief Financial Officer in Local Government (2010)" sets out five key principles that are critical for the achievement of a finance director's statutory responsibilities:

- contributing to and integral to corporate management and leadership;
- maintaining strong financial management and planning to support strategic objectives;
- supporting and advising democratically elected representatives, developing an effective Audit Committee and putting in place effective financial controls and governance;
- leading and managing an effective and responsive financial service;
- ensuring a professionally qualified CFO is appointed.

S114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has resulted, or would result in, a loss or deficiency to the council;
- is about to make an unlawful entry in the authority's accounts.

S114 of the 1988 Act also requires:

- the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under section 114 personally. In this council, the Head of Financial Services performs the statutory and Head of Profession functions in the absence of the Director of Finance.
- the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under s114.

The Chief Finance Officer is also responsible for advising Committees or the Full Council where a decision is not in accordance with the budget framework.

#### **2.5.4 Corporate Management Team**

Members of Corporate Management Team comprise the Chief Executive, Strategic Directors, the Director of Finance, Lead Commissioners and Heads of Resource and Delivery Units.

Members of Corporate Management Team are responsible for:

Ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Finance.

Sending all draft reports to the Director of Finance in time for the financial implications to be fully considered and inserted before the reports are considered by the Strategic Leadership Board or Members. All reports should include the comments of the Director of Finance, where appropriate. Failure to ensure that the Director of Finance has sufficient time to consider the financial implications may result in the withdrawal of the report at his/her discretion.

Entering into and signing contracts on behalf of the council in accordance with the Council's Corporate Procurement Strategy, procurement Codes of Practice (COPs) and Contract Standing Orders.

The operation of sound financial procedures within their service and ensuring that adequate controls are in place.

Ensuring that all staff authorised to act on their behalf are aware of the need to comply with Financial Regulations and Standard Financial Procedures.

Ensuring that financial systems that are developed locally within services are managed in accordance with principles of reconciliation, sound controls, security and other guidelines issued by the Director of Finance. Such systems shall be made available to the head of the Internal Audit service.

Where Financial Regulations and Standard Financial Procedures set out the role of Corporate Management Team, this term should be taken to include individual officers of Corporate Management Team including the Chief Executive. Where the role and responsibilities of Corporate Management Team are collective, this will be explicitly stated.

### **2.5.5 Changes of Roles & Responsibilities**

In the event of any change in the job title of any officer or any Committee or Sub-Committee, or the transfer of any responsibilities of any officer, the Director of Finance may make consequential amendments to Financial Regulations and Standard Financial Procedures to take account of the change and/or transfer.

## **2.6 Other Financial Accountabilities**

### **2.6.1 Virement (Budget Transfer)**

Corporate Management Team are responsible for agreeing in-year virements for their services but must not take decisions or transfer resources contrary to current council policy as represented by the approved budget.

The procedure for virements is set out in Standard Financial Procedures (paragraph [A.2.1](#)).

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

The procedure is set out in Standard Financial Procedures (paragraph [A.2.2](#)).

### **2.6.3 Accounting Policies**

The Director of Finance is responsible for implementing accounting policies which accord with the Code of Practice on Local Authority Accounting and ensuring that they are applied consistently.

### **2.6.4 Accounting Records and Returns**

The Director of Finance is responsible for determining the accounting procedures and records for the authority, in accordance with statutory requirements and best practice. He/she will also maintain a register of partnerships and other entities in which the council has an interest so that Group Accounts can be published in compliance with local government accounting requirements.

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

The Director of Finance is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom developed by CIPFA. The Audit Committee is responsible for approving the annual statement of accounts.

In accordance with the Accounts and Audit Regulations 2011, the Director of Finance must:

- (a) before Audit Committee approve the annual statement of accounts, and no later than 30<sup>th</sup> June immediately following the end of the financial year, sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of the council's income and expenditure for that year; and
- (b) after the Audit Committee have considered the statement of accounts, but before they approve it, re-certify its presentation.

### **3 FINANCIAL PLANNING & BUDGET SETTING**

#### **3.1 Financial Planning Framework**

The Full Council is responsible for approving the policy framework (including all relevant statutory plans and strategies) and budget, which will be proposed by the Policy and Resources Committee. In terms of financial planning, the key elements are:

the Corporate Plan,  
the Revenue Budget,  
the Capital Programme, and  
the Medium Term Financial Strategy (MTFS).

The Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions of that nature should be referred to the Full Council.

The Policy and Resources Committee is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

#### **3.2 Budget Format**

The general format of the budget will be approved by the Full Council and proposed by the Policy and Resources Committee on the advice of the Director of Finance. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

#### **3.3 Revenue Budget Preparation**

The Director of Finance is responsible for ensuring that a revenue budget is prepared on an annual basis and reported to the Policy and Resources Committee and then Full Council in accordance with statutory requirements. The Full Council may amend the budget before approving it.

A medium term financial strategy (MTFS) taking account of revenue resources over three years and capital resources over five years will also be prepared. The MTFS, which complements the Corporate Plan, will be updated periodically to give constant medium-term estimates and will be reported at least annually to the Policy and Resources Committee and then Full Council.

It is the responsibility of each member of Corporate Management Team to ensure that budget estimates reflecting agreed service plans are submitted to the Policy and Resources Committee and that these estimates are prepared in line with guidance issued by the Committee. This applies at all levels regardless of how budgets are presented and/or aggregated. For example, budgets may be aggregated by strategic theme (e.g. People, Place), or by

commissioned areas or by delivery areas. At each level, the relevant member of Corporate Management Team is responsible for ensuring that budget estimates are prepared in line with guidance issued by the Policy and Resources Committee.

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

The Director of Finance is responsible for ensuring that systems are in place to provide appropriate financial information to enable all revenue and capital budgets to be monitored effectively. He/she must report to the Policy and Resources Committee on the overall position on a regular basis in accordance with the Targeted Budget Management (TBM) framework.

It is the responsibility of Corporate Management Team to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Finance. They should report on variances against the budgets allocated to their services under Targeted Budget Management. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance to any problems. Financial and performance data should be linked wherever possible in accordance with good practice.

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

The Director of Finance is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Policy and Resources Committee before submission to the Full Council.

### **3.6 Resource Allocation**

The Director of Finance is responsible for developing and maintaining a financial resources allocation process that ensures due consideration of the Full Council's policies and priorities.

### **3.7 Budget Setting Guidelines**

Guidelines on budget preparation are issued to members and Corporate Management Team by the Director of Finance taking into account the current policy framework determined by the Council and any subsequent policy framework proposed by the Policy and Resources Committee. The guidelines will take account of:

- legal requirements;
- the medium term planning prospects;
- the Corporate Plan;
- council priorities;
- available capital and revenue resources;
- value for money;
- spending pressures;
- government guidelines;

other internal policy documents;  
cross-cutting issues, and;  
the adequacy of the general and earmarked reserves.

### **3.8 Maintenance of Reserves**

It is the responsibility of the Director of Finance to advise the Policy and Resources Committee and the Full Council on prudent levels of reserves for the authority to ensure the council has a sound financial standing. This is pursuant to Sections 32 and 43 of the Local Government Finance Act 1992 require billing and precepting authorities in England and Wales to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement.

## **4.0 RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **4.1 Introduction**

Risk management is the planned and systematic approach to the identification, evaluation and control of risks. Its objectives are to enable effective use of resources, secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. The Director of Finance is required to develop and promote risk management across the council and provide advice to managers on the most appropriate tools to use.

### **4.2 Risk Management and Insurance**

The Policy and Resources Committee is responsible for approving the authority's risk management framework and strategy and for reviewing the effectiveness of risk management. The Audit Committee also has a role in reviewing risk management arrangements (see para. **Error! Reference source not found.**).

The Director of Finance is responsible for ensuring that proper insurance arrangements exist where appropriate.

### **4.3 Internal Control**

Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.

The Director of Finance is responsible for advising on effective systems of internal control and will need to provide an Annual Governance Statement that accompanies the statement of accounts. Arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.

It is the responsibility of members of Corporate Management Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **4.4 Audit Requirements**

The Accounts and Audit Regulations 2011 require every local authority to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.

The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by the Audit Commission Act 1998.

The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs who have statutory rights of access.

#### **4.5 Preventing Fraud and Corruption**

The Director of Finance is responsible for the development and maintenance of a counter fraud strategy and effective arrangements to acknowledge, prevent and enforce. The strategy is approved by the Audit Committee who monitor this together with the effectiveness of counter fraud arrangements.

#### **4.6 Assets**

Corporate Management Team should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency (disaster recovery) plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

#### **4.7 Treasury Management**

The authority has adopted CIPFA's code of practice for treasury management in local authorities.

The Policy and Resources Committee is responsible for approving the treasury management policy statement setting out the matters detailed in "Treasury Management in the Public Services: Code of Practice for Treasury Management in Local Authorities". Full Council is responsible for approving the Annual Investment Strategy in accordance with regulations and guidance issued under the Local Government Act 2003.

All money in the hands of the council is controlled by the officer designated for the purposes of s151 of the Local Government Act 1972, referred to in the code as the Chief Finance Officer (Director of Finance), who shall make appropriate banking arrangements.

All Committee decisions on borrowing, investment or financing shall be delegated to the Director of Finance, and such officers as he/she may nominate, who shall be required to act in accordance with the Code of Practice referred to in the council's Treasury Management Policy Statement and Annual Investment Strategy.

#### **4.8 Trust Funds, Funds Held for Third Parties and Other Voluntary Funds**

All trust funds, funds held for third parties and other voluntary (unofficial) funds must be approved by the Director of Finance. A voluntary (unofficial) fund is defined as any fund, other than an official fund for the council, which is controlled wholly or in part by an officer by reason of his or her employment by the council.



Corporate Management Team are responsible for ensuring that they are operated in line with appropriate legislation and/or Charity Commission guidance if appropriate.

Corporate Management Team shall ensure that all such funds are audited by suitably qualified auditors and are submitted within six months of the end of the accounting period to the council and any other parties (i.e. clients, sponsors, charitable bodies) with an interest in the fund.

The Director of Finance reserves the right to inspect all documentation relating to unofficial funds and seek such explanations as are necessary to ensure they are being appropriately managed. From time to time the Director of Finance may issue specific guidance on such funds that must be complied with.

#### **4.9 Staffing**

The Chief Executive is responsible for providing overall management to staff. He/she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

Corporate Management Team are responsible for controlling total staff numbers by:

- advising Policy & Resources Committee on the budget necessary in any given year to cover estimated staffing levels required to deliver approved levels of service and having regard to statutory provision;
- adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;
- complying with any vacancy management procedure, recruitment procedure, interim and agency worker appointment procedure, establishment control or other staffing related corporate procedures agreed by the Chief Executive and the Strategic Director of Resources or the Director of Finance as appropriate;
- the proper use of appointment policy and procedures.

## **5 SYSTEMS AND PROCEDURES**

### **5.1 Introduction**

Sound systems and procedures are essential to an effective framework of accountability and control. This applies to all systems and processes, however, certain IT systems carry more importance. In particular, the corporate Financial Information System, Payroll and HR systems are prime records often subject to both internal and external audit review. Compliance with procedures and controls in relation to these systems is therefore essential to underpin the overall framework of accountability and control.

### **5.2 General**

The Director of Finance is responsible for the operation of the authority's financial systems, the form of accounts and the supporting financial records. Any changes made by Corporate Management Team to the existing financial systems or the establishment of new systems must be approved by the Director of Finance. However, Corporate Management Team are responsible for the proper operation of financial processes in their own services.

Any changes to agreed procedures required or identified by Corporate Management Team to meet their own specific service needs must be agreed with the Director of Finance.

Corporate Management Team must ensure that their staff receive relevant financial training that has been approved by the Director of Finance. Where access to financial systems is through the use of unique user names and passwords, officers must not allow others to use their access codes or otherwise make use of their rights.

Corporate Management Team must ensure that, where appropriate, ICT and other systems are registered in accordance with data protection legislation. Corporate Management Team must ensure that staff are aware of their responsibilities under Data Protection and Freedom of Information legislation.

### **5.3 Income and Expenditure**

It is the responsibility of Corporate Management Team to ensure that staff are appropriately authorised to act on behalf of the member of Corporate Management Team, or the relevant Committee and in accordance with the Scheme of Delegation to Officers, in respect of payments, income collection and placing orders. Authorised signatories and the limits of financial responsibility must be in accordance with relevant systems, procedures and the Scheme of Authorisation issued by the Director of Finance. In no circumstance can an officer be given an unlimited limit, as this is not allowed under the council's insurance arrangements.

The Policy and Resources Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

#### **5.4 Payments to Employees and Members**

The Head of Human Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members. The scheme for Members allowances is the responsibility of the Head of Law.

#### **5.5 Imprest and Petty Cash Accounts**

The Director of Finance in consultation with Corporate Management Team may make imprest/petty cash advances to officers for the purposes of paying minor items of expenditure and any other items as may be approved.

The Director of Finance reserves the right to withdraw petty cash/imprest facilities from officers if it is deemed that they are being used inappropriately or the expenditure limit is exceeded or a deficit balance is accrued.

The accounts should be kept on the imprest system and officers should maintain a record of their receipts and payments in a form and manner prescribed by the Director of Finance.

#### **5.6 Credit Cards and Procurement/Purchasing Cards**

The Director of Finance may make available to nominated officers Credit Card and/or Purchasing Card facilities. The Director of Finance will determine the application and approval process and set out the terms and conditions on which the cards are to be issued.

Corporate Management Team are responsible for ensuring that they or any staff in their services issued with Credit or Purchasing Cards comply with the terms and conditions of use and remain within any financial or credit limits imposed. The Director of Finance reserves the right to withdraw the use of any Credit or Purchase Card if it is deemed that they are being used inappropriately or the financial or credit limit is exceeded.

Corporate Management Team are responsible for maintaining, retaining, presenting and/or completing any documentation, forms or electronic records in accordance with the requirements specified by the Director of Finance.

#### **5.7 Cash Collection Facilities**

The Director of Finance shall approve the form of all cash collection facilities and associated procedures. This includes safes, automated cash collection machines and other cash collection facilities. CMT shall ensure that all relevant procedures issued by the Director of Finance are complied with including the requirements of the corporate banking contract and security carrier contracts.

## **5.8 VAT & Taxation**

The Director of Finance is responsible for advising Corporate Management Team, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

The Director of Finance is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate. The Head of Human Resources will be required to maintain income tax and national insurance records in accordance with guidelines set by the Director of Finance.

## **5.9 Trading Accounts**

It is the responsibility of the Director of Finance to advise on the establishment and operation of trading accounts.

## **5.10 Financial Information Systems**

It is essential that all of the council's ICT systems are developed in a planned and co-ordinated way so that they interface correctly with corporate financial ICT systems in order to deliver high quality management information to support the council's requirements and strategies.

Corporate Management Team will need to liaise with the Director of Finance and the Head of ICT on any proposals either to purchase ICT systems or undertake major equipment or software procurement, or to undertake a major upgrade or extension of existing systems.

## **5.11 Control of Contracts**

It is essential that all members of Corporate Management Team follow Contract Standing Orders as well as Financial Regulations. The achievement of value for money when procuring goods and services is a key task to ensure that public money is well spent.

## **5.12 Banking Arrangements**

The Director of Finance is responsible for ensuring that the council operates cost effective and sound banking systems to ensure its financial transactions are documented with the utmost accuracy, evidenced by reconciliations, with the avoidance of fraud and corruption. The Policy and Resources Committee shall approve all banking contract terms and conditions.

## **5.13 Financial Authorisation Limits**

Financial authorisation limits need to be set in the interests of good governance and financial management. The Director of Finance will determine the Scheme of Authorisation and will authorise any exceptions. Corporate Management Team are responsible for ensuring staff authorised to act on their behalf do not exceed approved financial authorisation limits, particularly where manual processes are in operation.

## **6.0 EXTERNAL ARRANGEMENTS**

### **6.1 Introduction**

The council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **6.2 Partnerships**

The Policy and Resources Committee is responsible for approving delegations, including frameworks for partnerships, and is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

The main reasons for entering into a partnership are:

- where required, to act as the statutory accountable body;
- the desire to find new ways to share risk;
- the ability to access new resources;
- to provide new and better ways of delivering services;
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or services in relation to a statutory function or functions of the council or in support of council priorities,

or

- a body whose nature or status gives it a right or obligation to support the project or services.

Partners participate in projects or services by:

- acting as commissioner, deliverer or sponsor of projects or services, solely or in concert with others;
- acting as funder or part funder of projects or services;
- being the beneficiary group of the activity undertaken in a project or services.

Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- to act in good faith at all times and in the best interests of the partnership's aims and objectives;
- be open about any conflict of interests that might arise;

to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;  
to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;  
to act wherever possible as ambassadors for the project.

The Policy and Resources Committee can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority's Constitution. Where functions are delegated, the Policy and Resources Committee retains accountability.

The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct, including financial administration, in partnerships that apply throughout the council.

The Director of Finance must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He/she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies, particularly where the authority is the designated lead partner or accountable body. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies. He/she will also maintain a register of partnerships and other entities in which the council has an interest so that Group Accounts can be published in compliance with local government accounting requirements.

Corporate Management Team are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **6.3 External Funding**

The Director of Finance is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the council's accounts.

### **6.4 Work for Third Parties**

The Policy and Resources Committee, or other relevant Committee, is responsible for approving the contractual arrangements for any work for third parties or external bodies although this may be delegated to officers in accordance with the council's scheme of delegation.

## **SCHEDULE OF OFFICER RESPONSIBILITIES**

### Monitoring Officer

Financial Regulations including Standard Financial Procedures refer to the Monitoring Officer. The Head of Law is responsible for this role.

### Chief Finance Officer

The role of Chief Finance Officer is undertaken by the Director of Finance. He/she is also responsible for strategic risk management.

### Deputy Chief Finance Officer (Deputy S151 Officer)

This role is currently held by the Head of Financial Services. This role deputises for the Chief Finance Officer in relation to the statutory requirements of Section 151 of the Local Government Act 1972. The Deputy CFO role does not include authority awarded to the Director of Finance under the Scheme of Delegation to Officers.

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## PART 7.4 – STANDARD FINANCIAL PROCEDURES

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## 1 INTRODUCTION

Financial Regulations set out the framework of control, responsibility and accountability for the proper administration of the council's financial affairs to enable Members and officers to carry out their statutory duties. The Financial Regulations need to be translated into a set of operational procedures to ensure their effective implementation and, in particular, the responsibilities of the finance director and Corporate Management Team must be clearly set out. These "Standard Financial Procedures" therefore form part of the formal Financial Regulations and detail how the regulations are to be applied in practice.

Each section of the Standard Financial Procedures follows the format set out below:

**Why is this important?** – this sets the context for the standard financial procedure/s;

**Key controls** – this explains the key internal controls that set the framework for ensuring financial regulations are operating effectively;

**Responsibilities of the Director of Finance (Chief Finance Officer)** – sets out the specific responsibilities of this officer;

**Responsibilities of Corporate Management Team, Lead Commissioners, Heads of Delivery Units, Corporate Management Team, Strategic Leadership Board** – sets out the specific responsibilities of some or all of the officers as appropriate (see 'Definitions' below).

## 2 DEFINITIONS

**Financial Regulations incorporate Financial Standing Orders and Standard Financial Procedures.**

In Financial Regulations the following terms/roles have the following meanings:

'Finance Director', 'Director of Finance' and 'Chief Finance Officer' all have the same meaning for the purposes of Financial Regulations;

'The S151 Officer' is also the Chief Finance Officer. 'The Deputy S151 Officer' is the Head of Financial Services;

'Strategic Directors' include the Lead Commissioner for Adult Social Care & Health (in so far as it relates to his/her role as the Statutory Director of Adult Social Services);

'Lead Commissioner' and 'Head of Commissioning Unit' have the same meaning for the purposes of Financial Regulations;

'Corporate Management Team' (CMT) means the Chief Executive, Strategic Directors, the Director of Finance, Lead Commissioners and Heads of Resource and Delivery Units. By default, where Financial Regulations refer to Corporate Management Team this is a reference to the individual members of CMT unless it is expressly stated that CMT is referred to as a body or collective.

'Strategic Leadership Board' (SLB) means the Chief Executive, Strategic Directors and the Director of Finance.

'Budget Holders' and 'Budget Managers' have the same meaning and include any officer of the council given delegated responsibility by a member of Corporate Management Team for managing an approved budget.

For clarification, it should be noted that under the Scheme of Delegation to Officers, Heads of Delivery Units have concurrent delegated powers with their relevant Strategic Director for both general and specific delegations. As stated in the Scheme of Delegations to Officers, this means that the exercise of general and specific delegations by Heads of Delivery Units shall be subject to the following:

- The power delegated to the Head of a Delivery Unit may be exercised by the relevant Strategic Director.
- The exercise of the power by the Head of a Delivery Unit is subject to any instructions or guidance that may be issued from the Chief Executive or the relevant Strategic Director.
- The relevant Strategic Director may suspend the exercise of any power by the Head of a Delivery Unit.
- The exercise of the powers by the Head of Delivery Unit shall be subject to the outcome and other requirements stipulated as part of the commissioning decisions.

**A FINANCIAL MANAGEMENT**

**A.1 FINANCIAL MANAGEMENT STANDARDS**

**Why is this important?**

All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that those standards are met. A set of Financial Management Standards were approved by the council's chief officer group in 2007 and are available on the council's intranet.

Each year the council's external auditor provides an opinion in the Financial Statements on the council's arrangements for securing economy, efficiency and effectiveness (i.e. value for money) in its use of resources. The auditor will consider how well the council plans and manages its finances, how well its assets and other resources are managed, and the effectiveness of its arrangements for financial governance and internal control.

**Key Controls**

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

- the promotion of the agreed standards throughout the authority;
- a monitoring system to review compliance with financial management standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Policy and Resources Committee.

**Responsibilities of the Director of Finance:**

To maintain an appropriate set of Financial Management Standards taking into account best practice and statutory requirements.

To maintain strong financial management and administration, underpinned by effective systems of internal financial controls.

To ensure a prudential financial framework is in place including medium term planning.

To ensure proper professional practices are adhered to and act as head of profession in relation to the standards, performance and development of finance staff throughout the council.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial management information is available to enable accurate and timely monitoring within the Targeted Budget Management (TBM) framework, and reporting of comparisons of national and local financial performance indicators.

**Responsibilities of the Corporate Management Team are:**

To promote the financial management standards set by the Director of Finance across their services and to monitor adherence to the standards and practices, liaising as necessary with the Director of Finance.

To comply with any corporate organisation and development programme designed to increase awareness, knowledge and skills in respect of financial management standards.

**A.2 MANAGING EXPENDITURE**

**A.2.1 Scheme of Virement (Budget Transfer)**

**Why is this important?**

The scheme of virement is intended to enable the Policy and Resources Committee, Corporate Management Team and their staff to manage budgets with a degree of flexibility within the overall budget framework determined by Full Council, and therefore to optimise the use of resources.

**Key controls**

Key controls for the scheme of virement are that:

It is administered by the Director of Finance within the budget framework set by Full Council.

The overall budget is agreed by the Policy and Resources Committee and approved by Full Council. Corporate Management Team and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure.

The virement does not create additional overall budget liability. Corporate Management Team are expected to exercise their discretion in managing their budgets responsibly and prudently and in accordance with any performance management arrangements approved by the Chief Executive and/or Strategic Leadership Board. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources.

Corporate Management Team must plan to fund such commitments from within their own budgets.

Virements may only be made in respect of direct expenditure or income. Virements may not be made to or from internal charges or other inter-departmental administrative or support service charges (i.e. Indirect expenditure/income).

Virement is inappropriate where expenditure and income items are linked. This is to avoid virement of one side of the activity only, for example, meals income and the related provisions cost. This principle applies equally to projects financed by grants or contributions by third parties including joint finance.

Virement on a scale that implies a change of policy must be channelled through normal committee reporting requirements. Similarly, new activities outside reasonable interpretation of existing council policy will continue to require Policy and Resources Committee approval.

Creation of expenditure budgets from anticipation of income, for example, expanding a trading activity, should be actioned prudently.

Virements should not be allowed to disguise under/overspends but it is appropriate to use them to achieve an element of budget realignment.

Virement between the General Fund and other funds (e.g. HRA, Schools DSG) is not allowed.

Virements within Schools DSG are not subject to these regulations and must be in accordance with the Scheme for Financing Schools and the Schools Forums Regulations.

Detailed reasons for virements should be specified.

### **Responsibilities of the Director of Finance.**

To prepare, in consultation with the relevant Strategic Director, a report to Policy and Resources Committee where virements in excess of £250,000 are proposed excepting technical centralisation / decentralisation virements as noted in 0 and virements within Schools DSG as noted in 0.

To approve virements greater than £100,000 but less than £250,000 excepting technical centralisation / decentralisation virements as noted in 0 and virements within Schools DSG as noted in 0.

To approve all technical centralisation / decentralisation virements required to reflect internal charging arrangements.

To action virements to reflect Committee decisions including restructuring of services.

## **Responsibilities of Corporate Management Team**

A member of Corporate Management Team may exercise virements on budgets under his or her control for amounts up to £100,000 on any one budget head during the year, following notification to the Director of Finance directly or through his or her Head of Finance for that service area. Below £25,000 budget holders can approve virements without approval of a member of Corporate Management Team.

Amounts greater than £100,000 but less than £250,000 require the approval of the Director of Finance.

Amounts greater than £250,000 require the approval of Policy and Resources Committee, following a report by the Director of Finance in consultation with the relevant Strategic Director, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. This information should be included in Targeted Budget Management reports.

Virements that are likely to impact on the level of service activity of another member of Corporate Management Team may only be implemented after agreement with the relevant member of Corporate Management Team. This does not apply to technical centralisation / decentralisation virements.

All virements impacting on employee budgets must be in accordance with any approved Establishment Management procedure.

No virement relating to a specific financial year should be made after 31 March in that year.

Virements within schools DSG are dealt with in the Scheme for Financing Schools and the Schools Forums Regulations.

Where an approved budget is a lump sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- the amount is used in accordance with the purposes for which it has been established;

- the Policy and Resources Committee has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Policy and Resources Committee.

### **A.2.2 Treatment of year-end balances**

**Why is this important?**



Overspends or underspends in relation to the approved revenue budget may occur for a variety of reasons. There is no 'as of right' carry forward of underspends from one financial year to another. Decisions on carry forward of overspending or underspending will be made in the context of the financial position of the council as a whole and not any one particular service area.

The rules below cover arrangements for the transfer of resources between financial years, that is, a carry forward.

### **Key controls**

Appropriate accounting procedures are in operation to ensure that carried forward totals are correct.

### **Responsibilities of the Director of Finance**

To administer the scheme of carry forward within the guidelines approved by the Policy and Resources Committee and to ensure compliance with the Accounts and Audit Regulations and the Code of Practice for local authority accounting.

To agree carry forward of underspends of up to £50,000 per member of Corporate Management Team service area if he/she considers this incentivises good financial management. To seek approval from the Policy and Resources Committee for carry forward of underspends over £50,000. To advise the Policy and Resources Committee on the financial position of the council and the implications for overspends, which may need to be carried forward in exceptional circumstances.

### **Responsibilities of Corporate Management Team**

Should the Policy and Resources Committee, after consulting the Director of Finance, determine that overspending on service estimates under the control of the member of Corporate Management Team be carried forward to the following year, the overspend will constitute the first call on service estimates in the following year.

Underspends cannot be carried forward without consultation with the Director of Finance, who will determine if specific approval is required by the Policy and Resources Committee.

The policy on overspending and underspending on schools' balances is dealt with in the Scheme for Financing Schools.

## **A.3 ACCOUNTING POLICIES**

### **Why is this important?**

The Director of Finance is responsible for the preparation of the authority's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom for each financial year ending 31 March.

### **Key controls**

The key controls for accounting policies are:

- systems of internal control are in place that ensure that financial transactions are lawful

- suitable accounting policies are selected and applied consistently

- proper accounting records are maintained

- financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### **Responsibilities of the Director of Finance**

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared as at 31 March each year, and covers such items as: separate accounts for capital and revenue transactions, fixed assets, charging for capital, capital receipts, debtors and creditors, stocks and work in progress, provisions, reserves, charging for support services, investments, pensions, single entity and group accounts.

### **Responsibilities of Corporate Management Team**

To adhere to the accounting policies and guidelines approved by the Director of Finance.

## **A.4 ACCOUNTING RECORDS AND RETURNS**

### **Why is this important?**

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

## **Key controls**

The key controls for accounting records and returns are:

- all Members, finance staff and budget holders operate within the required accounting standards and timetables

- all the council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis

- procedures are in place to enable accounting records to be reconstituted in the event of systems failure

- reconciliation procedures are carried out to ensure transactions are correctly recorded

- prime documents are retained in accordance with legislative and other requirements.

## **Responsibilities of the Director of Finance**

To determine the accounting procedures and records for the authority. Where these are likely to be maintained outside of the Finance service, the member of Corporate Management Team concerned should consult the Director of Finance.

To arrange for the compilation of all accounts and accounting records under his or her direction, and to ensure that adequate records are maintained by Corporate Management Team to provide a management trail to the corporate financial system and the accounting statements.

To ensure compliance with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them

- employees with the duty of examining or checking the accounts of cash transactions must not be engaged in these transactions.

To prepare and publish the audited accounts of the council for each financial year, in accordance with the statutory timetable and with the requirement for Full Council to approve the Statement of Accounts in accordance with that timetable.

To administer the council's arrangements for under and overspendings which are carried forward to the following financial year.

To ensure the proper retention of financial documents in accordance with the requirements set out in Standard Financial Procedures paragraph 0.

To provide statutory information to the government as required.

### **Responsibilities of Corporate Management Team**

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

To comply with the principles outlined at paragraph 0 above when allocating accounting duties.

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

To ensure that all claims for funds including grants are made by the due date and to ensure reconciliation with the prime financial system.

To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Director of Finance.

## **A.5 THE ANNUAL STATEMENT OF ACCOUNTS**

### **Why is this important?**

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

### **The key controls for the annual statement of accounts are:**

The authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Director of Finance.

The authority's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom issued by the CIPFA/LASAAC joint committee.

### **Responsibilities of the Director of Finance**

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the Code of Practice for Local Authority Accounting.

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

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

To submit statutory financial information to the government as required.

In respect of the signing and certification of the annual statement of accounts, to comply with the duties of the 'responsible financial officer' under regulation 8 of the Audit and Accounts Regulations 2011.

#### **Responsibilities of Corporate Management Team**

To comply with accounting guidance provided by the Director of Finance and to supply the Director of Finance with information when required.

**B FINANCIAL PLANNING**

**B.1 LOCAL PLANS**

**Why is this important?**

Each local authority may publish various plans in accordance with its Policy Framework or to comply with statutory requirements as set out by government from time to time. The purpose of these plans is usually to explain overall priorities and objectives, current performance, and/or proposals for further improvement. The authority currently publishes an annual Corporate Plan setting out its priorities.

**Key controls**

The key controls for local plans are:

- to ensure that all relevant plans are produced in accordance with the council's Policy Framework and that they are consistent;
- to produce plans in accordance with any relevant statutory requirements;
- to meet the statutory and/or local timetables set;
- to ensure that all performance and financial information is accurate, complete and up to date;
- to provide improvement or financial targets which are meaningful, realistic and appropriately challenging.

**Responsibilities of the Director of Finance**

To ensure the provision of the financial information that needs to be included in local plans is in accordance with the council's Policy Framework and/or statutory requirements and agreed timetables.

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

To ensure that systems are in place to collect accurate financial information for use as performance indicators, including how effective the council is in obtaining value for money.

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

### **Responsibilities of Corporate Management Team**

To contribute to the development of performance plans, compacts or agreements in line with the council's Policy Framework and/or statutory requirements.

To contribute to the development of corporate and service targets and objectives and performance information, including performance data on critical budgets in relation to Targeted Budget Management.

### **Responsibilities of the Strategic Director of Resources**

To ensure that systems are in place to collect accurate information for use as performance indicators.

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

## **B.2 BUDGETING**

### **B.2.1 Format of the Budget**

#### **Why is this important?**

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

#### **Key Controls**

The key controls for the budget format are:

- the format complies with all legal requirements;
- the format complies with CIPFA's Code of Practice for local authority accounting;
- the format reflects the accountabilities of service delivery.

### **Responsibilities of the Director of Finance**

To advise the Policy and Resources Committee on the format of the budget that is approved by [Full Council](#).

### **Responsibilities of Corporate Management Team**

To comply with accounting guidance provided by the Director of Finance.

## **B.2.2 Revenue budget monitoring and control**

### **Why is This Important?**

Budget management ensures that once the budget has been approved by Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control using the Targeted Budget Management (TBM) framework is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that holds designated managers accountable for defined elements of the budget and for performance. TBM is also linked to performance monitoring and requires action plans to mitigate variances from budgets, particularly for those budgets that could have a critical impact, in order to ensure the council meets its financial targets. TBM therefore has a strong risk-based focus.

By continuously identifying and explaining variances against budgetary targets, the council can identify changes in trends and resource requirements at the earliest opportunity. The council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it, produce robust action plans to bring spending back in line, subject to revised targets set for each manager to deal with adverse variations elsewhere in the council's budget.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Scheme of Delegation to Officers.

Service Committees shall keep all charges and income under review in accordance with the Corporate Fees & Charges Policy and shall receive a report from Strategic Directors on price variation above or below the corporately applied rate of inflation.

### **Key controls**

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

- budget holders should be responsible only for income and expenditure that they can influence;

- there is a nominated budget holder for each cost centre heading;

- budget holders accept accountability for the budgets allocated to them and the level of service to be delivered and understand their financial responsibilities;



budget holders follow an approved certification process for all expenditure;

income and expenditure are properly recorded and accounted for;

financial performance is monitored and reported in accordance with the requirements of the council's budgetary control framework (TBM);

performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;

budget holders must not charge goods and services against the budgets of other managers without obtaining prior agreement;

budget holders are aware of and comply with Financial Management Standards; financial management training and support is available across the council.

### **Responsibilities of the Director of Finance**

To establish an appropriate framework of budget management and control, together with guidance and training, which ensures that:

budget management is exercised in accordance with the framework of Targeted Budget Management and within annual budgets unless [Full Council](#) agrees otherwise;

each member of Corporate Management Team and budget holder has available timely information on receipts and payments on each budget which is sufficiently detailed to enable budget holders to fulfil their budgetary responsibilities;

each cost centre has a single named budget holder, determined by the relevant member of Corporate Management Team. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure, and expenditure should only be committed to an approved budget head;

significant variances from approved budgets are investigated and reported by budget holders regularly to Financial Services and to the relevant member of Corporate Management Team, together with action plans to bring the budget back in line;

all officers responsible for committing expenditure comply with relevant guidance and financial regulations.

To administer the council's scheme of virement.

To submit reports to the Policy and Resources Committee and to Full Council, in consultation with the relevant Strategic Director and member of Corporate Management Team, where a member of Corporate Management Team is unable to balance expenditure and resources within existing approved budgets under his or her control.

To prepare and submit reports on the council's projected income and expenditure compared with the budget monthly to the Corporate Management Team (CMT) and at least quarterly to the Policy and Resources Committee.

### **Responsibilities of Corporate Management Team**

To maintain budgetary control within their services for the budgets delegated to them and to ensure that all income and expenditure is properly recorded and accounted for.

To ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the member of Corporate Management Team (grouped together in a series of cost centres) and that the budget holder monitors the relevant budget/s in accordance with the council's TBM framework. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

To ensure that budget holders do not charge goods and services against the budgets of other managers without obtaining prior agreement.

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

To ensure that a monthly monitoring process is in place for services to review performance levels/levels of service in conjunction with the budget and the process is operating effectively.

In consultation with the relevant Strategic Director and the Director of Finance to prepare and submit to CMT monthly and Policy and Resources Committee at least quarterly reports on the service's projected expenditure compared with its budget.

To ensure prior approval by Full Council or the Policy and Resources Committee (as appropriate) for significant new proposals that:

- create new financial commitments in the current year;
- create financial commitments in future years;
- change existing policies, initiate new policies or cease existing policies;
- materially extend or reduce the authority's services.

To ensure compliance with the scheme of virement (see paragraph 0).

To agree with the relevant member of Corporate Management Team where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or member of Corporate Management Team's level of service activity.

### **B.2.3 Budgets and Medium-Term Planning**

#### **Why is this important?**

The council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable limited resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies. The council sets this out at a high level in its Medium Term Financial Strategy (MTFS), which is a 3-year forecast of capital and revenue plans including reserves. The key aim of the MTFS is to provide financial stability over the medium term to support delivery of the council's key service priorities and outcomes.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Full Council. Budgets are needed so that the council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a local authority to budget for a deficit.

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

#### **Key Controls**

The key controls for budgets and medium term planning are:

- specific budget approval for all expenditure;
- budget holders are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Policy and Resources Committee for their budgets and the level of service to be delivered;
- a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken and action plans implemented.

#### **Responsibilities of the Director of Finance**

To prepare and submit reports on budget prospects to Full Council, including resource constraints set by the Government, especially dealing with the robustness of the budget and the adequacy of reserves.

To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by Full Council, and after consultation with the Policy and Resources Committee and Strategic Leadership Board.

To prepare and submit reports to Full Council on the council's overall financial strategy which meets its policy and service objectives, showing aggregate spending plans of services and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.

To ensure there is a Medium Term Financial Strategy and provide detailed financial forecasts to assist in the development of the council's plans and strategies.

To encourage the best use of resources and value for money by working with Corporate Management Team collectively and individually to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise Full Council on the Policy and Resources Committee's proposals in accordance with his or her responsibilities under s151 of the Local Government Act 1972.

#### **Responsibilities of Corporate Management Team**

To prepare estimates of income and expenditure, in consultation with the relevant Strategic Director and the Director of Finance having regard to the formal guidance issued by the Director of Finance to be submitted to the Policy and Resources Committee and Full Council.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

When drawing up draft budget requirements, to have regard to:

- guidance issued by the Director of Finance;
- spending patterns and pressures revealed through the Targeted Budget Management process;
- legal requirements;
- policy requirements as defined by Full Council in the approved policy framework;
- initiatives already under way and council priorities;
- revenue costs of proposed capital schemes.

To encourage the best use of resources and value for money by working with the Director of Finance to identify opportunities to

improve economy, efficiency and effectiveness, and by encouraging good practice in drafting business cases or conducting financial appraisals of development or savings options, and in developing financial aspects of service planning and commissioning intentions.

#### **B.2.4 Resource Allocation**

##### **Why is this important?**

A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil needs or priorities. It is therefore imperative that needs/priorities are carefully considered and that resources are fairly allocated, in order to fulfil all legal responsibilities, and ensure that value for money is obtained. Resources may include staff, money and assets.

##### **Key Controls**

The key controls for resource allocation are that:

- resources are acquired in accordance with the law and using an approved authorisation process, for example, in accordance with the council's Corporate Procurement Strategy and Contracts Standing Orders to ensure value for money;

- resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;

- resources are securely held for use when required;

- resources are used with the minimum level of waste, inefficiency or loss for other reasons.

##### **Responsibilities of the Director of Finance**

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to budget managers.

##### **Responsibilities of Corporate Management Team**

To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.

To identify opportunities to maximise other external funding sources, and minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

Collectively, to identify opportunities to manage or allocate resources more effectively across the council provided this complies with

statutory requirements, Financial Regulations and the council's policy framework including its approved budget and local plans.

### **B.2.5 Capital Programmes**

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

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

The Local Government Act 2003 permits local authorities to borrow to finance capital expenditure provided that the plans are affordable, prudent and sustainable in the long term. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of limited resources.

All capital expenditure, as defined in the Local Government Act 2003 or in any subsequent regulations, will be included within the approved capital programme, with the exception of expenditure on the acquisition of equipment, vehicles or plant not exceeding £20,000, which is for operational purposes only. This does not preclude such items being treated as capital items (i.e. fixed assets or enhancements to fixed assets) for accounting purposes.

#### **Key Controls**

The key controls for capital programmes are:

- specific approval by Full Council for the programme of capital expenditure, in conjunction with the annual revenue budget process, outlining the phasing of expenditure and the sources of funding;
- a scheme and estimate, including options appraisal, project plan, progress targets and associated revenue expenditure are prepared for each capital project, for approval in accordance with the table at [B.2.6.9](#);
- no capital scheme to proceed unless all required finance and other necessary approvals have been obtained;
- proposals for improvements and alterations to buildings must be approved by the appropriate member of Corporate Management Team in consultation with the Head of Property & Design;
- major rolling programmes of capital expenditure will require a detailed report to be submitted to Policy and Resources Committee covering all the schemes within each programme of works and will include the purpose, benefits, risks, total

projected cost, expenditure profile and the full financial implications, both capital and revenue. This will include, but not be limited to, the programmes for the housing stock, Housing Enabling, Education, Asset Management Fund, Corporate Planned Maintenance, ICT Fund, Strategic Investment Fund and Local Transport Plan. These may be reported separately or as part of a Targeted Budget Management report;

the development and implementation of an Asset Management Plan;

a nominated, accountable budget holder for each scheme and/or component of the programme;

monitoring of progress on capital schemes and comparison with approved budget and remedial action taken to address overspends, reporting monthly to CMT and at least quarterly to the Policy and Resources Committee;

compliance with the Council's Corporate Procurement Strategy and Contract Standing Orders, for example when inviting competitive quotes or tenders.

### **Responsibilities of the Director of Finance**

To prepare capital estimates jointly with Corporate Management Team and to report them to Full Council for approval, together with the revenue implications and prudential indicators as prescribed in the Prudential Code to demonstrate the affordability of the plans. The Policy and Resources Committee will make recommendations on the capital estimates and on any associated financing requirements to Full Council. The approval of the Policy and Resources Committee is required where a member of Corporate Management Team proposes to bid for or exercise additional borrowing not anticipated in the capital programme. This is because the extra borrowing may create future revenue commitments to financing costs.

To prepare and submit, at least quarterly, reports to the Policy and Resources Committee on the projected expenditure and resources compared with the approved estimates and to obtain authorisation for any variations outside approved virement limits. Performance against capital budgets will be incorporated in Targeted Budget Management reports alongside revenue performance.

To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of capital expenditure will be determined by the Director of Finance, having regard to government regulations and accounting requirements.

### **Responsibilities of Corporate Management Team**

To comply with guidance concerning capital schemes and controls issued by the Director of Finance.

Prior to the commencement of any capital project, members of Corporate Management Team shall produce and submit for approval a detailed report to the Policy and Resources Committee. Reports should be compiled separately or as part of the standard TBM monitoring report according to the criteria listed below. This will include the purpose, benefits, risks, total projected cost, expenditure profile and full financial implications, both capital and revenue, of the proposed project. No capital project shall be reported without a satisfactory business and financial case developed in consultation with finance officers.

Project Reporting Criteria	TBM report appendix	Separate report to Policy and Resources Committee
<u>Initial project approval:</u>  Total projected cost less than £100,000.	√	
Total projected cost greater than or equal to £100,000 could be in the capital monitoring report appendix (TBM) or in a separate report to the Policy and Resources Committee, depending on size, risk, revenue or policy implications.		√
Projects committing the council to on-going additional revenue costs. As above, depends on size of capital cost and/or risk, policy implications as to which is most appropriate.	√	√



Specific works funded under a s106 agreement	√	
Leasing costs to be incurred instead of capital financing costs where assets are to be acquired, and where expenditure would be within budget	√	
<u>Significant increases in tender or contract prices.</u>	√	

Where provision is made within the Capital Programme for advance feasibility design and works, each member of Corporate Management Team may incur expenditure associated with the feasibility and initial design of future capital schemes with the approval of the Director of Finance. Any expenditure incurred where a scheme does not proceed will be recharged to the service's revenue budget.

To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Director of Finance.

To ensure that tenders and/or quotations are obtained in accordance with the council's Corporate Procurement Strategy, procurement Codes of Practice (COPs) and Contract Standing Orders. This includes ensuring that centrally negotiated contracts are used if they are in place.

To prepare regular reports reviewing the capital programme provisions for their services. They should also provide estimated final costs of schemes in the approved capital programme for consideration by the Director of Finance and inclusion in (at least) quarterly reports to the Policy and Resources Committee.

To promptly identify and report slippage on any schemes and to liaise with the Director of Finance in respect of reprofiling capital expenditure into future financial years where circumstances outside the control of the council mean that it is not possible to spend capital budgets in the current financial year.

To ensure that adequate records are maintained for all capital contracts in line with Contract Standing Orders.

To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Director of Finance where required.

To ensure that all necessary approvals have been received from the Planning Authority or Government Departments where appropriate.

To prepare and submit information, jointly with the Director of Finance, to be included within the TBM report to the Policy and Resources Committee, of any variation in contract costs greater than the amount approved within the Capital Programme. Members of Corporate Management Team may meet cost increases of up to 10% or £50,000, whichever is the lesser, by virement from savings elsewhere within their capital programme or revenue budget, subject to agreement with the Director of Finance.

To obtain Director of Finance approval for carry forwards of year-end capital underspends, other than when funded from scheme specific resources. Where projects are overspent, this may be a first call on the service's capital allocation in the subsequent year's programme.

To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Director of Finance and, if applicable, approval of the scheme through the capital programme.

To consult with the Director of Finance and to seek Policy and Resources Committee approval where the member of Corporate Management Team proposes to bid for supported borrowing or other external funding to support expenditure that has not already been included in the approved Capital Programme.

To ensure that no schemes are brought forward or substituted in the Capital Programme without Director of Finance approval where 'slippage' of an approved scheme may have occurred.

To aim to complete, construct or procure all items expected to be undertaken in each financial year of a scheme in order to ensure that capital schemes are carefully resourced and monitored. The aim must be to keep capital slippage to an absolute minimum and to take action to avoid the risk of losing capital resources through slippage.

### **B.3 MAINTENANCE OF RESERVES**

#### **Why is this important?**

The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of Council tax. Reserves are maintained as a matter of prudence. Reserves enable the authority to provide for unexpected events and thereby protect it

from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key Controls**

To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.

For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

Authorisation of expenditure from specific reserves by the appropriate member of Corporate Management Team should only be actioned with the approval of the Director of Finance. Allocations from the council's general contingency reserves require the approval of the Director of Finance in accordance with budget guidelines set by Full Council.

### **Responsibilities of the Director of Finance**

To annually review the levels of reserves, taking into account an appropriate assessment of financial risks, and advise the Policy and Resources Committee and/or Full Council on prudent levels of general reserves and risk provisions for the council.

### **Responsibilities of Corporate Management Team**

To ensure that resources are used only for the purposes for which they were intended.

**C RISK AND OPPORTUNITY MANAGEMENT AND CONTROL OF RESOURCES**

**C.1 RISK AND OPPORTUNITY MANAGEMENT (ROM)**

**Why is this important?**

All organisations face risks that can affect achievement of their objectives. Risk Management is defined as “the culture, processes and structure, which come together to optimise the management of potential opportunities and adverse effects”.

Risk and Opportunity Management is concerned with evaluating the probability of an event and its consequences, identifying the measures the organisation already has in place to manage identified issues (risks) and then taking any further action to control these risks effectively. The adequacy of the control measures should be monitored and the control measures reviewed as necessary.

It is at the core of decision-making, business planning, managing change and innovation and needs to be practised at all levels. It enables the effective use of resources, securing the assets of the organisation and its continued financial and organisational well-being.

Risks and Opportunities need to be identified, evaluated and managed:

- at a strategic level when setting objectives, outlining strategic business plans, planning major changes, large projects and/or undertaking improvement reviews;

- at an operational level by selecting the most appropriate means to manage the particular risk identified; this could range from assessing risks and setting objectives and actions when planning or managing risks by implementing health and safety policies or procedures, complying with Financial Regulations, Contract Standing Orders or seeking insurance cover.

**Key controls**

The key controls for risk management are:

- The ROM Strategy is agreed and adhered to across the council.

- Procedures are in place to identify, assess and manage the risks that may hinder the council from reaching its objectives.

- Risk and opportunity management is a formalised stage of the business planning process, project management,

major changes initiatives and financial programme key controls.

A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls.

Risk management training and support is available across the council.

Managers know that they are responsible for managing risks and are provided with information on risk management initiatives and incidence levels.

### **Responsibilities of the Policy and Resources Committee**

The Policy and Resources Committee is responsible for approving the council's ROM Strategy and for reviewing the effectiveness of risk management. The Audit Committee also has a role in reviewing risk and opportunity management arrangements (see Financial Regulations).

### **Responsibilities of the Director of Finance**

The Director of Finance is required to:

- prepare the council's ROM Strategy for approval by the Policy and Resources Committee;

- issue and maintain procedures relating to risk management;

- develop risk management controls in conjunction with all members of the Corporate Management Team;

- promote risk management across the council and provide advice to managers on the most appropriate risk management tools to use.

- arrange cost effective and appropriate insurance cover and deal with insurance claims and resultant risk actions to reduce the incidence and severity of similar losses;

- ensure procedures are in place to investigate claims within required timescales;

- develop risk management controls for insurable risks;

- effect corporate insurance cover through external insurance and internal funding, and to oversee the negotiation of all claims in consultation with other officers and relevant bodies where necessary;

- maintain a continuous review of claims experience and to effect the optimum balance of internal and external insurance cover over time;

- administer the Municipal Mutual Insurance (MMI) Scheme of Arrangement, take all necessary action, process any claims and report to the Policy and Resources Committee any significant variations in the Scheme.

## **Responsibilities of Corporate Management Team**

Corporate Management Team are required to:

- ensure that there is a continuous review of exposure to risk within their services, produce and update risk registers for these services and act at all times so as to minimise risks;
- produce evidence of risk registers and risk management actions when undertaking strategic business planning, major change initiatives, large projects (for example, capital projects), new partnership arrangements and improvement reviews;
- monitor the progress of identified risks and subsequent risk management actions;
- notify the Director of Finance immediately of any major risks that are identified and cannot be managed within the resource levels of the service;
- raise the awareness and understanding of risk management throughout the council through training and regular use of risk management techniques in decision-making and planning;
- notify the Director of Finance immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Director of Finance or the authority's insurers;
- co-operate at all times with the investigations of the Insurance Manager and supply all information upon request. It is imperative that officers comply with the timescales for investigating claims. Failure could directly affect the authority's ability to defend a claim or could result in financial penalties being imposed on the authority;
- take responsibility for risk management, having regard to advice from the Director of Finance and other specialist officers (for example, the Risk Manager, the Insurance Manager, crime prevention, fire prevention, health and safety);
- notify the Director of Finance promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances, and supply the Director of Finance with asset valuations for insurance purposes as required;
- consult the Director of Finance on the terms of any indemnity that the authority is requested to give and to ensure no indemnities are given on behalf of the council without the agreement of the Director of Finance and the Head of Law;
- ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim;

ensure that all companies or individuals contracted to carry out construction work have adequate Public Liability insurance cover, consulting if necessary with the Director of Finance;

provide all relevant information and documentation in accordance with the Pre-Action protocols detailed by the Woolf Reforms to the Director of Finance when requested;

to fund from their budget the total cost of any claim which has been lost due to a service's inability to meet the protocol time limits.

## **C.2 INTERNAL CONTROLS**

### **Why is this important?**

The council is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives. The council is now required to publish an Annual Governance Statement in its Statement of Accounts.

The council has statutory obligations and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations. It also faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

It is the responsibility of Corporate Management Team to maintain and promote sound arrangements for internal control. These arrangements will be devised by management to ensure that the council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the council's assets and interests are safeguarded.

### **Key Controls**

The key controls and control objectives for internal control systems are:

key controls should be reviewed on a regular basis and the council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;

managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;

financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom (2006) and with any other statutory obligations and regulations.

### **Responsibilities of the Director of Finance**

To assist the council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

To put in place and maintain an adequate and effective internal audit service.

To report significant new or changed risks to the Audit Committee.

### **Responsibilities of Corporate Management Team**

To check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

To review existing controls in the light of changes affecting the council and to establish and implement new ones in line with guidance from the Director of Finance.

To ensure staff have a clear understanding of their responsibility to identify and manage risk on a continuous basis.

## **C.3 AUDIT REQUIREMENTS**

### **C.3.1 Internal Audit**

#### **Why is this important?**

The requirement for an internal audit function for local authorities is implied by s151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2003 (as amended) require the council to maintain an adequate and effective internal audit service.

Accordingly, internal audit is an assurance function that primarily provides an independent and objective opinion to the council on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the



organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

### **Key Controls**

The key controls for internal audit are:

- that it is independent of day-to-day service operation in its planning and operation;

- the head of the Internal Audit service has direct access to the Chief Executive, all levels of management and directly to elected Members as appropriate;

- that internal auditors comply with the CIPFA Code of Practice for Internal Audit in Local Government and the International Standards for Internal Auditing (IIA).

### **Responsibilities of the Director of Finance**

To ensure there is an effective internal audit function and assist with management in providing effective arrangements for financial scrutiny.

To ensure that internal auditors have the authority to:

- access council premises at reasonable times;

- access all assets, records (including electronic), documents, correspondence and system applications;

- receive any information and explanation considered necessary concerning any matter under consideration;

- require any employee of the council to account for cash, stores or any other authority asset under his or her control;

- access records belonging to third parties, such as contractors, when required;

- directly access the Chief Executive, the Policy and Resources Committee and Members as appropriate.

To ensure that Internal Audit staff at all times respect the confidentiality of operations or management information in the areas subject to audit activity.

To approve the Internal Audit Strategy and Annual Audit plans prepared by the head of the Internal Audit service, which take account of the characteristics and relative risks of the activities involved.

To advise on counter fraud strategies and measures, and ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

To ensure the provision of advice on the nature and extent of any further investigation to be conducted following the discovery or report of any irregularity involving cash, stores or other assets. Where there is the possibility of criminal action being brought, to ensure that any further interviewing is conducted to meet the requirements of the Police and Criminal Evidence Act 1984 and other relevant legislation.

To refer any matter to the Police following consultation with the member of Corporate Management Team concerned, and the Monitoring Officer.

To ensure that at the conclusion of each internal audit, a report and recommendations (if any) are submitted promptly to the relevant member of the Corporate Management Team of the service concerned.

### **Responsibilities of Corporate Management Team**

To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets and are provided with any information and explanations, that they consider necessary for the purpose of their work.

To consider and respond promptly to recommendations in audit reports and ensure the implementation of recommendations by agreed deadlines.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the head of the Internal Audit service.

Corporate Management Team members are responsible for notifying the head of the Internal Audit service immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the member of Corporate Management Team should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Director of Finance prior to implementation.

#### **C.3.2 External Audit**

##### **Why is this important?**

Currently, external auditors are appointed to each local authority in England and Wales by the Audit Commission. The external auditor

has rights of access to all documents and information necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, s4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:

- the financial aspects of the audited body's corporate governance arrangements;
- the audited body's financial statements;
- aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information.

This council's accounts are scrutinised by the District Auditor, who must be satisfied that the Statement of Accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with legal requirements. Under the Code of Audit Practice 2005 the external auditors will also be required to certify that they believe the council has spent money effectively and obtained value for money.

### **Key Controls**

External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the Director of Finance**

To ensure that the external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

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

To work with the external auditor and advise Full Council, the Policy and Resources Committee, the Audit and Standards Committee and Corporate Management Team on their responsibilities in relation to external audit.

## **Responsibilities of Corporate Management Team**

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

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

### **C.4 PREVENTING FRAUD AND CORRUPTION**

#### **Why is this important?**

The council is committed to fighting fraud and a zero tolerance policy in the administration of its responsibilities, whether internal or external fraud.

The council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The council also expects that individuals and organisations (for example, suppliers, contractors, partners, service providers) with whom it comes into contact will act towards the council with integrity and without thought or actions involving fraud and corruption.

The council must ensure that it complies with the Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and the Bribery Act 2010.

#### **C.4.1 Money laundering**

Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. It also includes the processing, or in any way dealing with, or concealing, the proceeds of crime.

The Proceeds of Crime Act 2002 and Money Laundering Regulations 2003 place some important obligations on all staff. The head of the Internal Audit service is the designated Money Laundering Reporting Officer for the council. Staff are required to inform the head of the Internal Audit service of any known or suspected money laundering activities. Staff should not normally accept a single cash transaction in excess of £10,000 GBP or the equivalent in Euros (EUR) at current exchange rates without the approval of the head of the Internal Audit service or nominated deputy.

#### **C.4.2 Bribery Act 2010**

Bribery is a criminal offence and council officers and Members must not pay bribes or offer improper inducements to anyone for any purpose, nor accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. Officers and members must not engage indirectly in or otherwise encourage bribery.

##### **Key Controls**

The key controls regarding the prevention of financial irregularities are that:

- the council has an effective Counter Fraud Strategy and maintains a culture that will not tolerate fraud or corruption;
- all Members and staff act with integrity and lead by example;
- senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the council or who are corrupt;
- high standards of conduct are promoted amongst members by the Audit and Standards Committee, and compliance with the Code of Conduct for Members;
- the maintenance of a register of interests in which any hospitality or gifts accepted by staff must be recorded;
- whistle blowing procedures are in place and operate effectively;
- legislation including the Public Interest Disclosure Act 1998 is adhered to;
- the maintenance of a register of Members' financial and other interests and a register of gifts and hospitality, over the value of £25, that Members have received in connection with their official duties.

##### **Responsibilities of the Director of Finance**

To develop and maintain a Counter Fraud Strategy.

To maintain adequate and effective internal control arrangements.

To ensure that all suspected irregularities are reported to the head of the Internal Audit service, and, if appropriate, to the Chief Executive and the Policy and Resources Committee.

##### **Responsibilities of Corporate Management Team**

To ensure that all suspected irregularities are reported to the head of the Internal Audit service.

To instigate the council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

To ensure that where financial impropriety is discovered, the Director of Finance is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, the police may be called in following consultation with the Director of Finance and/or Monitoring Officer to determine with the Crown Prosecution Service whether any prosecution will take place.

To maintain a directorate register of staff interests, such that potential conflicts of interest are identified and avoided wherever possible.

The Monitoring Officer must maintain a register of Members' financial and other interests and a register of gifts and hospitality over the value of £25.

## **C.5 ASSETS**

### **C.5.1 Security and Inventories**

#### **Why is this important?**

The council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. Up-to-date asset registers are a prerequisite for proper fixed asset accounting and sound asset management.

#### **Key Controls**

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- resources are used only for the purposes of the council and are properly accounted for;
- resources are available for use when required;
- resources no longer required are disposed of in accordance with the law and the regulations of the council so as to maximise benefits;
- asset registers and a property terrier are maintained for the council, assets are recorded when they are acquired and the records are updated as changes occur with respect to the location and condition of the asset;
- all staff are aware of their responsibilities with regard to safeguarding the council's assets and information, including the

requirements of the Data Protection Act and software copyright legislation;

all staff are aware of their responsibilities with regard to safeguarding the security of the council's ICT systems, including maintaining restricted access to the information held on them and compliance with the council's ICT and internet security policies;

an Asset Management Plan is maintained to identify strategies to deal with council property, ensuring property is used effectively and efficiently and with value for money, linked to the council's budgets, strategies, and objectives.

### **Responsibilities of the Director of Finance**

To ensure that an asset register is maintained in the council's financial records in accordance with good practice for all fixed assets with a value in excess of a pre-determined level which will be kept under review. In addition the Head of Property & Design has delegated power to maintain a property terrier, which records the holding committee and/or service, location, extent, plan reference, purchase and sale details, nature of the interest, tenancies granted, rents payable and purposes for which the property is held. The function of the asset register and the property terrier is to provide the council with information about fixed assets so that they are safeguarded, used efficiently and effectively, adequately maintained and insured.

To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, and valued to the Royal Institution of Chartered Surveyors (RICS) Appraisal & Valuation Standards.

To provide guidance on the form of records to be kept for stocks and stores.

To prepare the council's Asset Management Plan.

### **Responsibilities of Corporate Management Team**

The appropriate member of Corporate Management Team shall ensure that adequate inventories are maintained in a form approved by the Director of Finance for all properties, plant and machinery, furniture, fittings equipment and any movable assets of significant value currently owned or used by the council. Periodic checks of inventories should be undertaken. Where appropriate, security marking shall be used. The value of items to be included in an inventory shall be prescribed by the Director of Finance.

To submit information to the Director of Finance for the purpose of updating accounting, costing and financial records in respect of fixed assets including property and vehicles etc.

To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the member of Corporate Management Team in consultation with the Director of Finance and Head of Property & Design, has been established as appropriate.

To ensure the proper security of all buildings and other assets under their control. Corporate Management Team are responsible for the receipt, care, safe custody and issue of stocks and stores. Stores records shall be kept in a form agreed by the Director of Finance. Leased vehicles, plant or equipment may not be disposed of without the prior approval of the Director of Finance.

[Where land or buildings are surplus to requirements, to notify the Director of Finance in order that alternative uses or disposal may be considered. Members of Corporate Management Team may dispose of the freehold or leasehold of land for a consideration of £25,000 or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable.. No disposal of land and/or buildings above this value shall take place except with the approval of the Policy and Resources Committee after due consideration of a report from the council's officers.]

Members of Corporate Management Team may dispose of land on a lease for 25 years or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable.

To pass title deeds to the Head of Law who is responsible for custody of all title deeds.

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

To ensure the safe custody of vehicles, equipment, furniture, stock, stores, uniforms, keys, staff identity cards and other property belonging to the council and to maintain an effective system of stock control where appropriate. A certificate of the value of stocks held as at 31 March each year should be provided to the Director of Finance. Stocks should be maintained at reasonable levels, having regard to factors such as turnover, value, delivery quantities and delivery period, and are subject to a regular independent physical check.

To consult the Director of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

To ensure cash holdings on premises are kept to a minimum and are held securely and within insured limits. Secure arrangements should also be in place for any cheques held on council premises.



To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times and that the issue of keys is formally recorded and controlled and that the loss of any such keys must be reported to the Director of Finance as soon as possible.

To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Director of Finance, the Policy and Resources Committee agrees otherwise.

Where property is removed for an authorised purpose, and only if appropriate insurance cover has been obtained, full details and authorisation should be properly recorded (e.g. in a loans book) to enable its identification. Authorised purposes might include the use of portable computer equipment away from the office and also equipment used for home-based working.

To investigate and remove from the council's records (that is, write off) discrepancies as necessary, in accordance with approved procedures, or to obtain Policy and Resources Committee approval if they are of significant value following consultation with the Director of Finance. Where equipment or materials become unusable or obsolete, the Director of Finance may arrange for it to be written off in accordance with instructions issued by him/her. Where equipment or materials have a scrap value or resale value, disposal shall be at the best price obtainable following the procedure for disposal issued by the Director of Finance.

To ensure that goods are checked to the goods received note at the time of delivery, matched to order specification and that a delivery note is obtained.

## **C.5.2 Intellectual Property**

### **Why is this important?**

Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **Key Controls**

In the event that the council decides to become involved in the commercial exploitation of inventions, the matter should only

proceed following consultation with and on the advice of the Director of Finance and Head of Law.

Data and content, including that on the council's public website, should only be made available for re-use under the terms of the Open Government Licence.

#### **Responsibilities of the Director of Finance**

To develop and disseminate good practice through the council's intellectual property procedures.

#### **Responsibilities of Corporate Management Team**

To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

To consult the Director of Finance and Head of Law on any proposals to commercially exploit inventions.

The Strategic Director of Resources is responsible for assessing whether any exceptional circumstances may support an exemption to publish data and content under the Open Government Licence.

### **C.5.3 Disposal of Assets**

#### **Why is this important?**

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the documented procedures for the sale of land and buildings are set out in the Asset Management Plan. S123 Local Government Act 1972 generally requires councils to obtain best consideration that can reasonably be obtained when disposing of such assets. However, disposal at less than best consideration is possible under the legislation, for example, when other benefits are to be gained, including social housing and regeneration, but the circumstances need to be checked carefully in each case to ensure that the detailed requirements for a disposal at less than the best consideration can be satisfied.

#### **Key Controls**

Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the council, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

Procedures protect staff involved in the disposal from accusations of personal gain.

### **Responsibilities of the Director of Finance**

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed assets from the council's records and to include the sale proceeds if appropriate.

### **Responsibilities of Corporate Management Team**

To ensure that the guidelines on the disposal of surplus or obsolete materials, stores or equipment are followed.

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

## **C.6 TREASURY MANAGEMENT**

### **Why is this important?**

Many millions of pounds pass through the council's books each year. This has led to the establishment of formal codes of practice on Treasury Management drawn up by CIPFA. These aim to provide assurances that the council's money is properly managed in a way that balances risk with return, but with overriding consideration being given to the security of the council's financial resources.

### **Key Controls**

All monies in the hands of the council shall be aggregated for the purposes of Treasury Management and shall be under the control of the Director of Finance or the council's appointed agent.

That the council adopts the key recommendations of CIPFA's "Treasury Management in the Public Services: Code of Practice" (the Code) as described in section 4 of that Code.

Accordingly the council will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies and objectives of its treasury management activities;
- suitable treasury management practices (TMP's), setting out the manner in which the council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities;
- an Annual Investment Strategy (AIS).

The content of the policy statement and TMP's will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the council. Such amendments will not result in the council materially deviating from the Code's key recommendations.

The content of the AIS will follow guidance issued by the government. Full Council will approve the AIS prior to the commencement of the year, and any subsequent changes or revisions, on the recommendation of the Policy & Resources Committee.

The Council delegates responsibility for the implementation and monitoring of its treasury management policies, practices and AIS to the Policy and Resources Committee, and for the execution and administration of all treasury management decisions to the council's Director of Finance and more specifically to the Strategic Finance team, who will act in accordance with the council's treasury management policy statement, TMP's and AIS.

Policy and Resources Committee will receive reports on its treasury management policies, practices and activities (including the AIS) at least three times a year, these being an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in the TMP's.

#### **Responsibilities of the Director of Finance**

To arrange the borrowing and investments of the council in such a manner as to comply with the CIPFA Code and the council's Treasury Management Policy statement and Annual Investment Strategy.

To report at least three times a year on treasury management activities to the Policy and Resources Committee.

To ensure that all investments of money are made in the name of the council or in the name of nominees approved by the Policy and Resources Committee.

To effect all borrowings in the name of the council and to maintain records of such borrowing in accordance with the CIPFA Code and the council's Treasury Management Policy Statement.

To act as, or to appoint the council's bankers to act as, the council's registrar of stocks, bonds, mortgages etc.

#### **Responsibilities of Corporate Management Team**

To follow the instructions on banking issued by the Director of Finance.

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Director of Finance who will be responsible for seeking approval of the Policy and Resources Committee and/or Full Council where appropriate.

## **C.7 TRUST FUNDS, FUNDS HELD FOR THIRD PARTIES AND OTHER VOLUNTARY FUNDS**

Trust and other voluntary funds frequently provide service areas with additional sources of finance to provide services to their customers. Although not public money, such funds are administered by employees of the council in normal work time and therefore minimum standards must be met. In addition, customers, clients and benefactors who contribute to the fund are entitled to expect minimum levels of financial stewardship and accountability.

It is most important that an effective audit is carried out by a person with experience appropriate to the level of turnover of the fund. Where the annual income of the fund exceeds £25,000, the council recommends that a qualified accountant is appointed as the auditor/independent examiner.

The auditor must be totally independent from and have no indirect connection with the administration of the fund such as might inhibit the impartial conduct of the audit. This precludes:

any member of staff involved in the administration of the fund;  
a relative of any member of staff responsible for administering the fund.

In addition, the auditor should have the requisite ability and practical experience to carry out a competent examination of the accounts.

Where the annual variable income of the fund exceeds the VAT registration threshold (£73,000 as at 2011), the auditor should be a Consultative Committee of Accountancy Bodies (CCAB) qualified accountant; that is, a member of one of the six recognised accountancy bodies in the UK.

### **Key Controls**

The key controls for Trust Funds, funds held for third parties and other voluntary funds are:

Funds are only used for the purposes for which they are intended.

All funds with income over £25,000 are inspected or audited on an annual basis by an appropriately qualified auditor.

All monies are accounted for and kept separate from council funds.

### **Responsibilities of the Director of Finance**

To ensure that all trust funds held in the name of the council are audited in line with any statutory requirements.

To provide guidance on accounting arrangements.

### **Responsibilities of Corporate Management Team**

To arrange for all trust funds to be held, wherever possible, in the name of the council. All officers acting as trustees by virtue of their official position shall deposit securities etc. relating to the trust with the Director of Finance, unless the deed otherwise provides.

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

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

To follow all guidance issued by the Director of Finance.

Corporate Management Team shall maintain an itemised inventory of private property of persons taken into the care of the council, in each case prepared in the presence of two authorised officers. Such property shall be removed only in the presence of two people who shall both certify the itemised inventory of these items. Corporate Management Team shall also maintain an itemised inventory of private property when steps are necessary to prevent or mitigate loss or damage of moveable property. Inventory records shall be produced to the Director of Finance on request.

The Lead Commissioner of Adult Social Care shall be responsible for the administration of the personal effects and property of deceased persons within the definition of the Public Health (Control of Disease) Act 1984.

All private valuables of persons taken into the care of the council such as jewellery, watches or other articles of a similar nature and documents of title shall be deposited for safe custody in accordance with arrangements approved by the Director of Finance. A record must always be maintained by the member of Corporate Management Team wherever cash is held, including bank accounts or building society accounts. Due care must be taken to prevent or mitigate loss or damage to property of those who are taken into care.

Disposals of such property shall be in accordance with arrangements approved by the Director of Finance.

Corporate Management Team are responsible for ensuring that all voluntary funds held, where money and/or assets are handled by employees in the course of their employment or office, which have not been issued by the council, are properly administered and that they are audited under arrangements approved by the Director of Finance. Where cash is held in a bank account or building society account or such similar arrangements, a record must be maintained accordingly by the member of Corporate Management Team concerned. Cheques issued in respect of these accounts must not be pre-signed.

## **C.8 STAFFING**

### **Why Is this Important?**

In order to provide good quality services, it is crucial that the council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level. There must be adherence to council policies and procedures on staff recruitment and security of confidential information.

### **Key Controls**

The key controls for staffing are:

- an appropriate workforce strategy and policy exists, in which staffing requirements and budget allocation are matched within agreed limits/tolerances;

- procedures are in place for forecasting staffing requirements and cost;

- controls are implemented that ensure that staff time is used efficiently and to the benefit of the council;

- checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy, and have appropriate security clearance;

- within the total financial estimate provision approved by the council, Corporate Management Team shall be entitled to vary the numbers and composition of their workforce in order to meet service requirements provided such variations do not commit the council to increased expenditure in future years. Where an 'Establishment Management' process is approved by Strategic Leadership Board, Corporate Management Team are required to comply with the requirements of the process including any specified authorisations or approvals.

### **Responsibilities of the Director of Finance**

To act as an advisor to Corporate Management Team on areas such as National Insurance and pension contributions, as appropriate.

## **Responsibilities of the Strategic Director of Resources**

The Strategic Director of Resources has overall responsibility for ensuring that human resources and Health & Safety strategies, codes of practice, policies and procedures are developed and implemented across the council

## **Responsibilities of Corporate Management Team**

To produce an annual staffing budget.

To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads). This includes compliance with any approved staffing budget or establishment management procedures.

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

To comply with corporate requirements on recruitment to ensure that employees are appropriately qualified, experienced and trustworthy, and have appropriate security clearance.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided. In particular, where an 'Establishment Management' procedure is approved by the Chief Executive and Director of Finance, Corporate Management Team are required to comply with the requirements of the process including any specified authorisations or approvals.

To ensure authorisation for recruitment to vacant posts is obtained from members of Corporate Management Team or in accordance with any corporate vacancy management process approved by the Chief Executive or Strategic Leadership Board and that any opportunities are taken to generate short-term savings from vacant posts without severely impacting on service performance. Further guidance is set out in [D.2.3](#) Payments to employees and Members.

To comply with any direction set by the Policy and Resources Committee, the Chief Executive or Strategic Leadership Board in respect of vacancy management controls.



**D SYSTEMS AND PROCEDURES**

**D.1 IT SYSTEMS AND RELATED PROCEDURES**

**Why is this important?**

Service areas have many systems and procedures relating to the control of the council's assets, including purchasing, costing and management systems. Services are increasingly reliant on Information & Communication Technology (ICT) for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Director of Finance has a professional responsibility to ensure that the council's financial ICT systems are sound and should therefore be notified of any new developments or changes.

The Head of ICT is responsible for the procurement, development, implementation and maintenance of all ICT systems to the standards required by the business functions of Brighton & Hove City Council and its infrastructure.

**Key Controls**

The key controls for systems and procedures are:

- basic data exists to enable the council's objectives, targets, budgets and plans to be formulated;
- performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- early warning is provided of deviations from target, plans and budgets that require management attention;
- operating systems and procedures are secure.

**Responsibilities of the Director of Finance**

To make arrangements for the proper administration of the council's financial affairs, including to:

- issue advice, guidance and procedures for officers and others acting on the council's behalf;
- determine the financial systems, form of accounts and supporting financial records;
- establish arrangements for audit of the council's financial affairs;
- approve any new financial systems to be introduced, including systems linked to or interfaced with "feeder systems" the corporate financial information system;

approve any changes to be made to existing financial systems or related feeder systems;  
ensure output from the system is complete, accurate and timely;  
have suitable controls to ensure that systems and procedures are secure.

### **Responsibilities of Corporate Management Team**

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Finance.

To ensure that a complete management trail is maintained, allowing financial transactions to be traced between the accounting records and the original document.

To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed
- all processing is carried out in an accurate, complete and timely manner.

To comply with all other system controls as required by the Director of Finance.

To ensure compliance with all guidance and relevant legislation in relation to HM Revenue & Customs requirements, and be responsible for meeting from delegated budgets any penalties and interest payments which may arise following non-compliance.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

To ensure there is a documented and tested Disaster Recovery plan to allow information system processing to resume quickly in the event of an interruption. Wherever possible, back-up information should be securely retained in a fireproof location, always off site.

To ensure that systems are documented and staff trained in operations.

To consult with the Director of Finance before changing any existing ICT system or introducing new systems.

To ensure that only officers authorised to act on their behalf process payments, collect income and place orders, including variations; this should be evidenced through either: local procedure/practice notes,

job descriptions/organisational structure, a record of authorised signatories or a scheme of financial delegation.

To supply lists of authorised officers, with specimen signatures and delegated limits to the Director of Finance, together with any subsequent variations.

To ensure that, where appropriate, ICT systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

To ensure that relevant standards and guidelines for computer systems issued by the council's Head of ICT are observed.

To ensure that ICT equipment, infrastructure and software are protected from loss and damage through theft, vandalism, etc.

To comply with the copyright, designs and patents legislation and, in particular, to ensure that:

- only software legally acquired and installed by the council is used on its computers;

- staff are aware of legislative provisions;

- in developing systems, due regard is given to the issue of intellectual property rights, and where computer systems are developed for the council, the resulting programs should be held in escrow or equivalent arrangements.

## **D.2 INCOME AND EXPENDITURE**

### **D.2.1 Income**

#### **Why Is this Important?**

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance or at the point of supplying goods or services as this improves the council's cashflow and also avoids the time and cost of administering debts.

#### **Key Controls**

The key controls for income are:

- all income due to the council is identified and charged correctly, in accordance with the Corporate Fees & Charges Policy, which is regularly reviewed;

- all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;

all money received by an employee on behalf of the council is paid without delay to the Director of Finance or, as he or she directs, to the authority's bank account, and is properly recorded. The responsibility for cash collection should, ideally, be separated from:

- the responsibility for identifying the amount due;
- the responsibility for reconciling the amount due to the amount received.
- income received is not used to meet expenditure;
- effective action is taken to pursue non-payment within defined timescales;
- formal approval for debt write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule;
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process;
- to guard against fraud and money laundering, the maximum cash deposit accepted will be £10,000 or the equivalent in Euros at current exchange rates.

### **Responsibilities of the Director of Finance**

To agree arrangements and promote best practice for the collection of all income due to the council.

To collect income due in all cases where formal invoices are raised.

To ensure that all income received is kept securely and banked properly.

To order and supply to services all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.

To approve the form of all cash collection facilities and associated procedures. This includes safes, automated cash collection machines and other cash collection facilities.

To agree the write-off of bad debts and to report to the Policy and Resources Committee if this is material to either the accounts of the council as a whole or to the service in question.

To approve all debts to be written off in consultation with the relevant member of Corporate Management Team and to keep a record of all

sums written off and to adhere to the requirements of the Accounts and Audit Regulations 2011 (as amended).

To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibilities of Corporate Management Team**

To ensure that all income is accounted for. An officer authorised to raise an invoice shall not be permitted to amend or cancel invoices raised by him/her. Corporate Management Team shall ensure that only officers authorised by them are able to amend or cancel invoices on their behalf and that all requests to amend or cancel invoices will require a minimum of two authorised signatories. The Director of Finance shall be notified promptly of all money due to the council including details of contracts, leases or agreements and arrangements entered into which involve the receipt of money by the council. The Director of Finance must be promptly notified of new, or variations to, rents and leases or other periodic income to ensure that the periodic income register is accurately maintained.

To establish a charging framework for the supply of goods or services, including the appropriate charging of VAT, which accords with the Corporate Fees & Charges Policy and to review charges regularly.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To issue official receipts or to maintain other documentation for income collection in a form approved by the Director of Finance.

Raising invoices has a cost implication. Invoices for supplies or services with a value of less than £5 must not be issued without the approval of the relevant member of CMT.

To ensure that a record is kept of any money or cash equivalents (e.g. postal orders) received by post and is signed by the receiving officer.

To hold securely receipts, tickets and other records of income for the appropriate period.

To lock away all income (cash and cheques) to safeguard against loss or theft, and to ensure the security of cash handling. Maximum limits for cash held shall be agreed with the Director of Finance, having regard to the council's insurance cover, and must not be exceeded.

To ensure that all relevant cash collection procedures issued by the Director of Finance are complied with including the requirements of the corporate banking contract and security carrier contracts.

To ensure that income is paid fully and promptly into the appropriate council bank account in the form in which it is received. There must be sufficient information to identify the transaction. Money collected and deposited must be reconciled to the bank account on a regular basis. All cheques, money orders and postal orders received in any service area shall be crossed "Brighton & Hove City Council".

To ensure that reconciliations are in place to confirm that all income collected by their services is banked promptly and intact.

To ensure income is not used to cash personal cheques or make other payments.

To ensure that debtor invoices are raised and despatched promptly following any work done, goods supplied or services rendered where payment has not been received at or prior to the point of supply.

To recommend to the Director of Finance debts to be written off and to keep a record of all sums written off up to the approved limit.

To notify the Director of Finance of any contracts, leases or other arrangements entered into, which involve the payment of money to the council.

## **D.2.2 Ordering and Paying for Work, Goods and Services**

### **Why is this important?**

Public money should be spent with demonstrable probity and in accordance with the council's policies. Councils have a statutory duty to put in place arrangements to secure economy, efficiency and effectiveness in the use of resources. The council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the council's Corporate Procurement Strategy and procurement Codes of Practice (COPs).

Every officer and member of the council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the council, in accordance with appropriate codes of conduct.

### **Key Controls**

The key controls for ordering and paying for work, goods and services are:

all goods and services are ordered only by appropriate persons and are correctly recorded;

all goods and services shall be ordered in accordance with the council's Corporate Procurement Strategy, procurement Codes of Practice (COPS) and purchase order system requirements;

the tender and award of all contracts for goods, services and works shall be subject to the council's Contract Standing Orders and relevant statutory and European Union directives;

goods and services received are checked to ensure they are in accordance with the order. Where practicable, managers should try to ensure goods are not received by the person who placed the order;

payments are not made unless goods have been received by the council to the correct price, quantity and quality standards;

all payments are made within the payment terms or otherwise within 30 days to the correct person, for the correct amount and are properly recorded, regardless of the payment method;

all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule (see paragraph [D.8.8.4](#));

all expenditure, including VAT, is accurately recorded against the correct budget or accounting code and any exceptions are corrected;

in addition, the effect of e-business/e-commerce and electronic purchasing (e-Procurement) requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

All orders, including e-purchasing orders, must be in a form approved by the Director of Finance.

Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the council shall be by BACS, cheque or other instrument or approved method, drawn on the council's bank account by the Director of Finance. The use of direct debit shall require the prior agreement of the Director of Finance.

Orders must not be raised for any personal or private purchases, nor must personal or private use be made of council contracts.

### **Responsibilities of the Director of Finance**

To ensure that all the council's financial systems and procedures are sound and properly administered and that authorisation levels are commensurate with Financial Regulations, Standing Orders, Schemes of Delegation and good practice.

To maintain a Scheme of Authorisation for all Corporate Financial and Procurement IT Systems and any subsidiary IT systems capable of generating payments, orders or other financial commitments.

To approve any changes to existing financial systems and to approve any new systems before they are introduced.

To approve the form of official orders and associated terms and conditions, and ensure there is a back-up of orders that have been generated on the system, as part of the back-up/disaster recovery plan.

To make payments from the council's funds on the member of Corporate Management Team's authorisation or purchase order system authorisation that the expenditure has been duly incurred in accordance with Financial Regulations.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a Court Order.

To make payments to contractors on the certificate of the appropriate member of Corporate Management Team or purchase order system authorisation, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

To provide advice and encouragement on making payments by the most economical means and to report to the Corporate Management Team on payment processing performance in accordance with corporate reporting requirements.

### **Responsibilities of Corporate Management Team**

To comply with guidance issued by the Corporate Procurement Team, to ensure that the most favourable terms for price, delivery and quality have been obtained.

To ensure the safe custody and proper use of official orders, including e-purchasing orders. Orders shall include clearly the originator, the nature and quantity of the goods, supplies and services to be supplied and details of agreed or estimated prices, relevant discounts and delivery terms and be authorised by the appropriate officer.

To ensure that no orders are issued for goods or services where the cost is not covered by an approved budget in the relevant service area.

To ensure that orders are only used for goods and services provided to and for the use of the service area. Individuals must not use



official orders or e-purchasing orders to obtain goods or services for their private use.

To ensure that only those staff authorised by him or her place and/or authorise orders in accordance with the Scheme of Authorisation approved by the Director of Finance (see 0). The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained in accordance with Contract Standing Orders.

To ensure that copy orders are retained where non-computerised records are used, and that they are held securely.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order.

To pay invoices promptly in accordance with contract terms; the council target is payment within agreed terms or 30 days from the date the invoice is received.

To ensure that payment is not made unless a proper VAT invoice (excluding any balance brought forward) in the name of the council has been received, checked, coded and certified for payment, confirming:

- receipt of goods;
- that the invoice has not previously been paid;
- that expenditure has been properly incurred and is within budget;
- that prices are correct, including discounts; and
- that tax is deducted where appropriate.

Corporate Management Team are responsible for obtaining necessary VAT receipts. Failure to obtain adequate receipts could result in charges levied by H M Revenue & Customs, and this charge will be made to the relevant service.

To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the head of the Internal Audit service. In cases of payments on copy invoices, careful checks need to be carried out to prevent duplicate payments. When authenticated, a copy invoice should be marked clearly "not previously passed for payment" and properly certified.

To encourage suppliers of goods and services to receive payment by the most economical means for the council. Where payment of accounts by computerised system is proposed (e.g. e-billing), the system and certification procedures must be approved by the

Director of Finance. Payments made by direct debit must have the prior approval of the Director of Finance.

To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Finance. A record of all leases for the provision of accommodation must be kept and be available for audit and Targeted Budget Management at all times. This should include the length of the contract, terms of the lease, financial costings, authorisations to enter into the leases and evidence of contract compliance.

To notify the Director of Finance of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined annually by the Director of Finance.

With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Director of Finance the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

The Director of Finance and Corporate Management Team are responsible for ensuring that invoices are retained (either in secure file storage or electronically) for the defined period in accordance with Financial Regulations – Retention of Records (see paragraph 0).

Invoices should be made available for inspection as required, for example, by the Director of Finance, External Audit, HM Revenue & Customs.

### **D.2.3 Payments to Employees and Members**

#### **Why is this important?**

Staff costs are the largest item of expenditure for most council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by Full Council. The payroll function in this council is managed by the Head of Human Resources.

#### **Key Controls**

The key controls for payments to employees and Members are:

proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to starters, leavers, variations, and enhancements; and that payments are made on the basis of timesheets or claims;

frequent reconciliation of payroll expenditure against approved budget and bank account;

all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule (see paragraph 0);

that HM Revenue & Customs regulations are complied with.

### **Responsibilities of the Strategic Director of Resources**

The Strategic Director of Resources has overall corporate responsibility for compliance with statutory rules relating to employee matters and shall issue appropriate relevant advice, guidance and training to all staff to ensure that Corporate Management Team adhere to all statutory rules and the mandatory aspects of the council's Human Resources Policies and Practices including the agreed use of appointment procedures; the proper use of job evaluation or other agreed system for determining remuneration; the method used to make payments to staff including those falling within locally determined and local management schemes; dismissals; contract variations and the security and privacy of associated data.

To supply information on full time equivalent staffing numbers, and arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, with personal information linked to the payroll system, in accordance with procedures prescribed by him or her, on the due date.

To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

To make arrangements for paying Members' travel or other allowances upon receiving the prescribed form, duly completed and authorised.

To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

## **Responsibilities of Corporate Management Team**

To ensure appointments are made in accordance with the regulations of the council and approved establishments, grades, scales of pay and approved budget levels.

To maintain personnel information in a format specified by the Head of Human Resources and notify him or her promptly of all appointments, terminations, increments, timesheets, or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Human Resources.

To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees;
- payments are only made where there is a valid entitlement;
- conditions and contracts of employment are correctly applied;
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- any systems used to process personnel data or remunerations are properly maintained in compliance with these Financial Regulations, and that arrangements for paying salaries, compensation and other emoluments also comply.

To ensure that only officers authorised to act on behalf of CMT sign records and timesheets in accordance with the access controls applicable to the HR/Payroll system. The Head of Human Resources will determine the appropriate access and authorisation levels.

To ensure that payroll transactions are processed only through the payroll system, in order to ensure compliance with HM Revenue & Customs requirements. Corporate Management Team should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenue & Customs apply a tight definition for employee status, and in cases of doubt, advice should be sought from the Head of Human Resources.

Certification of timesheets by authorised officers means that:-

- the expenditure has been properly incurred, is legal, and that there is relevant estimate provision or other authority to spend;
- the payment is in accordance with the council's human resources policy and practices and other regulations;

the calculations of hours, pay rates and other allowances are correct;

the timesheet is arithmetically correct,

the timesheet has not previously been paid. In cases of copy timesheets, careful checks need to be carried out to prevent duplicate payments. When authenticated, any copy should be marked clearly "not previously passed for payment" and properly certified.

Ex-gratia payments shall be paid through the payroll system in accordance with Standard Financial Procedures - Financial Limits (see paragraph 0).

To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the council in accordance with nationally agreed rates, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Head of Human Resources is informed where appropriate. Payment of lump sum allowances will be made in accordance with arrangements formally approved by the Head of Human Resources.

To ensure that the Head of Human Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

To ensure that all appropriate payroll documents are retained and stored for the defined statutory period (see paragraph 0).

#### **Responsibilities of Members**

To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the financial year-end.

### **D.2.4 Corporate Procurement/Purchasing Cards**

#### **Why is this important?**

Corporate Procurement Cards are issued when:

There is an operational requirement for the flexibility which the card would offer;

There is an ongoing need that cannot be met effectively or efficiently by other arrangements;

There is a pattern of low value, high volume purchases where a purchase order is not appropriate.

Corporate procurement cards must not be used as methods of avoiding normal purchasing/payment arrangements.

### **Key Controls**

The key controls for corporate procurement cards are:

All applications for corporate procurement cards should be made on the appropriate form, meeting the specific criteria, appropriately authorised and supported by a business case approved by the budget holder;

A condition of usage agreement is issued to the cardholder upon approval, which must be signed and returned;

There is an individual transaction and monthly spend limit issued for each card holder which can not be exceeded. Card limits will be reviewed at regular intervals and if necessary revised;

Finance will monitor the use of corporate procurement cards. If inappropriate expenditure occurs, then it can be deducted from accrued salary and may result in the cancellation of the card;

Cardholders are required to keep a copy of all documentation that relates to the purchases, including the monthly procurement card statement that will be received by all purchasing cardholders.

### **Responsibilities of the Director of Finance**

To establish a corporate procurement card system that can be operated securely within the council.

To ensure that procurement card expenditure is accounted for and correctly presented in the council's accounts.

### **Responsibilities of Corporate Management Team**

To ensure that officers holding a corporate procurement card:

Obtain and retain receipts to support each payment made against the procurement card. Where appropriate, an official receipted VAT invoice must be obtained;

Submit records as required by the Director of Finance at regular intervals for uploading into the council's system;

Make adequate arrangements for the safe custody of the card;

Reconcile the expenditure monthly; reconciliation sheets to be verified in accordance with the notified procedure;

Lost or stolen cards must be reported immediately to the Co-op Bank and Finance;

Return the card to the council (Finance) upon leaving the council or at the request of the Director of Finance;

Do not use the card to obtain cash advances.

The Chief Finance Officer may require the return of the card at any time and may suspend or cancel its use in the event that the cardholder fails to comply with the conditions of use of the card.

#### **D.2.5 Corporate Credit Cards**

##### **Why is this important?**

Corporate Credit Cards are issued when:

An element of an officer's duties involves travel outside the City of Brighton & Hove including overseas, for council business;

There is an ongoing need that cannot be met effectively by other arrangements;

The case for an officer to be issued with a card has been approved by the relevant member of CMT or, in the case of members of CMT themselves, the Chief Executive.

Corporate credit cards must not be used as methods of avoiding normal purchasing/payment arrangements.

##### **Key Controls**

The key controls for corporate credit cards are:

A condition of usage agreement is issued to the cardholder upon approval, which must be signed and returned to Finance;

There is a credit limit issued for each card holder which cannot be exceeded. Credit limits will be reviewed at regular intervals and if necessary revised;

All items of expenditure listed on monthly statements are entered on a monthly return giving sufficient details of the activity/purpose and expenditure code;

Full credit card slips must be attached to monthly expenditure returns to support expenditure. VAT receipts must be retained;

The officer's line manager, Chief Finance Officer (or deputy) must authorise monthly expenditure returns;

Finance will monitor the use of corporate credit cards. If inappropriate expenditure occurs, then it can be deducted from accrued salary and may result in the cancellation of the card.

##### **Responsibilities of the Director of Finance**

To establish a corporate credit card system that can be operated securely within the council.

To ensure that credit card expenditure is accounted for and correctly presented in the council's accounts.

## **Responsibilities of Corporate Management Team**

To ensure that officers holding a corporate credit card:

- Obtain and retain receipts to support each payment made using the credit card; where appropriate, an official receipted VAT invoice must be obtained;
- Submit records as required by the Director of Finance at regular intervals for examination and coding;
- Make adequate arrangements for the safe custody of the card;
- Record transactions promptly;
- Reconcile the expenditure monthly; reconciliation sheets to be signed, a copy retained by the card holder and a copy forwarded to Finance;
- Lost or stolen cards must be reported immediately to the Co-op Bank and Finance;
- Ensure that the card is never used to cash personal cheques or to make personal loans;
- Return the credit card to Finance upon leaving the council or at the request of the Director of Finance;
- Do not use the card to obtain cash advances.

The Chief Finance Officer may require the return of the card at any time and may suspend or cancel its use in the event that the cardholder fails to comply with the conditions of use of the card.

### **D.2.6 Imprest and Petty Cash Accounts**

#### **Why is this important?**

Imprest and petty cash accounts allow:

- Urgent purchases where officers are unable to obtain goods or services in a timely manner to allow the continued delivery of the service.
- Minor items of expenditure, when it would not be cost effective to purchase the item through the creditor payments system.

Imprest and petty cash accounts must not be used as methods of avoiding normal purchasing/payment arrangements.

#### **Key Controls**

The key controls for imprest and petty cash accounts are:

- all transactions are properly accounted for;
- proper authorisation procedures are in place;
- there is appropriate supporting documentation for all purchases;



purchases are appropriate and could not be made through the council's normal purchase ordering system;  
purchases demonstrate Value for Money;  
accounts are kept in balance and reconciled on a regular basis;  
cash, cheque books and accounting records are held securely.

### **Responsibilities of the Director of Finance**

To establish a petty cash/imprest system to be operated by the council.

To ensure that petty cash is accounted for and correctly presented in the council's accounts.

### **Responsibilities of Corporate Management Team**

To ensure that employees operating an imprest account:

- obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
- use vouchers and other documentation prescribed by the Director of Finance;
- ensure that a separation of duties is evidenced in the processing and authorisation of each payment;
- retain documentation in accordance with the instructions of the Director of Finance and HMRC;
- maintain the account in balance and submit records as required by the Director of Finance at regular intervals for examination and the reimbursement of expenditure;
- make adequate arrangements for the safe custody of the account;
- produce upon demand by the Director of Finance cash and all vouchers to the total value of the imprest amount;
- record transactions promptly;
- reconcile and balance the account at least monthly;  
reconciliation sheets to be signed and retained by the imprest holder;
- reconcile and balance the account to the satisfaction of their line manager on leaving the employment of the council or on ceasing to be responsible for the account;
- provide the Director of Finance with a certificate of the value of the account held on request (normally once a year);
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made;

ensure that no income received on behalf of the council may be paid into a petty cash/imprest account but must be banked or paid into the council;

repay to the Council the balance of the petty cash/imprest held upon leaving the council or at the request of the Director of Finance.

No officer shall certify a petty cash/imprest bank account claim for reimbursement of expenditure to him/herself.

No payments or reimbursements shall be made for values over £100.

In no circumstances shall imprest accounts be allowed to go overdrawn.

### **D.3 VAT & TAXATION**

#### **Why is this Important?**

Like all organisations, the council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

#### **Key Controls**

The key controls for taxation are:

- budget holders are provided with relevant information and kept up to date on tax issues;

- budget holders are instructed on required record keeping;

- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;

- records are maintained in accordance with instructions;

- returns are made to the appropriate authorities within the stipulated timescale.

#### **Responsibilities of the Director of Finance**

In liaison with the Head of Human Resources, to arrange for the completion of all HM Revenue & Customs returns regarding Pay As You Earn (PAYE).

To complete a monthly return of VAT inputs and outputs to HM Revenue & Customs.

To provide details to HM Revenue & Customs regarding the construction industry tax (CIS) deduction scheme.

To maintain up-to-date guidance for council employees on taxation issues.

To provide details to the HM Revenue & Customs and account for income tax deducted from payments made by the council.

#### **Responsibilities of Corporate Management Team**

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue & Customs regulations.

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

To ensure that all persons employed by the council are added to the council's payroll and tax deducted from any payments, except where the individuals are proven to be genuinely self-employed or are employed by a recognised staff agency.

To follow the guidance on taxation issued by the Director of Finance.

### **D.4 TRADING ACCOUNTS**

Why is this important?

Trading accounts have become more important as local authorities have developed a more commercial culture. Councils are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

#### **Responsibilities of the Director of Finance**

To advise on the establishment and operation of trading accounts and business units.

#### **Responsibilities of Corporate Management Team**

To observe all statutory requirements in relation to business units, including, where required, the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged.

To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

To ensure that any trading unit prepares an annual business plan.

## **D.5 COUNCIL SYSTEMS**

### **Why is this important?**

It is essential that the council's financial systems are developed in a planned and co-ordinated way so that they interface correctly in order to deliver high quality management information to support the council's requirements and strategies.

### **Responsibilities of the Director of Finance**

To liaise with the Head of ICT and members of Corporate Management Team on the proposed development of financial systems.

### **Responsibilities of Corporate Management Team**

To follow the council's ICT Strategy and liaise with the Strategic Director of Resources and the Head of ICT on any proposals either to purchase IT equipment or software, or to undertake a significant upgrade or expansion of existing systems. This includes compliance with any corporate Procurement and ICT approval procedures for the purchase of ICT.

To conform to the council's 'Use of ICT' policies including security and control of systems' standards within their services and for security and privacy of data necessary to accord with the Data Protection Act.

All Corporate Management Team members must ensure that all such systems within their services are registered in accordance with the Data Protection Act. When accessing central or other systems, Corporate Management Team will be responsible for ensuring that agreed procedures are followed. Any proposal to purchase or develop a major computer system (IT hardware, software or communications equipment) shall be the subject of a business case in an approved form and in accordance with the council's ICT Strategy and corporate Procurement and ICT approval procedures. Such proposals will also be subject to post implementation review.

Corporate Management Team, in conjunction with the Strategic Director of Resources, shall make sound and sufficient contingency and Disaster Recovery arrangements to ensure the security and business continuity of services in the event of a disaster, for example, fire, flood etc. and to enable the restitution of systems and data.

The Head of ICT shall be responsible for the issue of guidance related to the control and security of information and communication systems.

## **D.6 CONTROL OF CONTRACTS**

### **Why is this important?**

The achievement of value for money when procuring goods and services is a key task to ensure that public money is well spent. Very large sums are spent on procured goods and services and the adoption and implementation of good procurement practice can significantly improve value for money through reduced prices, improved quality and/or increased volumes at no extra cost. The council has introduced 'Category Management' as an approach to further improve value for money.

### **Responsibilities of the Director of Finance**

To issue and review regularly Contract Standing Orders, the Corporate Procurement Strategy, Procurement Codes of Practice and Procurement Guidance/Toolkits to ensure that procurement efficiencies and value for money are key objectives across the council.

### **Responsibilities of Corporate Management Team**

To comply with the documents and guidance referred to in paragraph 0.

Operational leasing or contract hire arrangements for vehicles, plant or equipment may be entered into by Corporate Management Team, provided the Director of Finance is satisfied that the method of finance is appropriate for the asset concerned and that the best terms available have been secured.

#### **Works in Default:-**

Each member of Corporate Management Team responsible for issuing works in default notices must obtain at least three written quotations for the work from contractors selected from the council's approved Selective Tendering Standing List.

Policy and Resources Committee approval must be sought if the estimated cost of the works exceeds £100,000. Director of Finance approval is required for works estimated at £100,000 or lower.

A charge on the property must be made as soon as the works are completed by advising the Head of Law accordingly.

Each member of Corporate Management Team shall ensure that all companies contracted to carry out works in default have adequate Public and Personal Liability insurance cover, consulting if necessary with the Director of Finance.

All other Financial Regulations and Standing Orders relating to ordering and payment for goods and services apply.

Works to execute statutory functions and to remedy urgent public health hazards:-

Occasionally it is necessary for the council to serve notice to undertake various works, including unblocking or repairing drains, removing rubbish and boarding up dangerous properties.

All works undertaken in this regard should comply with Contract Standing Orders.

## **D.7 BANKING ARRANGEMENTS**

### **Why is this important?**

It is essential that the council operates cost effective and sound banking systems to ensure its financial transactions are documented with the utmost accuracy, with the avoidance of fraud and corruption. The Policy and Resources Committee shall approve all banking contract terms and conditions.

### **Responsibilities of the Director of Finance**

To make or approve all other arrangements with the council's bankers and is authorised to operate such accounts as he/she deems necessary. Bank accounts for imprest holders and delegated financial management schemes and the provision of card facilities shall be subject to the approval of the Director of Finance.

With the exception of imprest accounts or Local Management Schemes, to order all cheques, including accounts operated through the post office network, and make proper arrangements for their safe custody.

To issue procurement and/or credit cards to Corporate Management Team or other officers with delegated authority with the consent of the Director of Finance and only on terms approved by him/her.

To ensure cheques drawn on the council's main bank accounts bear the facsimile signature of the Director of Finance or be signed by him/her or officers authorised by the Director of Finance. The manual pre-signing of cheques is not permitted on any cheque drawn on a council bank account.

To manually sign cheques in excess of £50,000 or authorise an officer nominated by the Director of Finance to sign manually.

To ensure bank accounts, which are maintained by establishments as imprest accounts or under schemes of local management, are operated on a dual signatory basis unless specific alternative arrangement have been agreed in writing with the Director of Finance.

Where payments are to be transmitted either electronically or automatically, to approve the necessary arrangements made to safeguard the interests of the council.

To ensure all council funds are banked to the corporate accounts of the council, appropriate subsidiary accounts or other accounts in the name of the council and approved by the Director of Finance. To ensure no other accounts are used for transacting or transferring council funds.

#### **Responsibilities of Corporate Management Team**

To manage bank accounts, imprest accounts and credit cards in accordance with guidance issued by the Director of Finance, and ensure that all council funds are banked to corporate accounts of the council.

To maintain records of delegated powers given to officers to manage banking arrangements.

### **D.8 FINANCIAL LIMITS**

#### **Why is this important?**

Financial limits need to be set in the interests of good governance and financial management. The Director of Finance is responsible for managing and maintaining an effective Scheme of Financial Limits which is primarily, but not exclusively, embedded in the procedures for access to and use of relevant corporate financial systems. Corporate Management Team are responsible for ensuring that only authorised officers act on their behalf and that each officer complies with the Scheme of Financial Limits as it applies to them.

#### **D.8.1 Virements - Revenue Budget**

Corporate Management Team are responsible for ensuring that virements are actioned in accordance with the requirement specified in Standard Financial Procedures paragraph [A.2.1](#).

In keeping with the “Targeted Budget Management” framework, Corporate Management Team shall ensure that only officers authorised to act on their behalf process virements. This will normally be evidenced through either: local procedure/practice notes, job descriptions/organisational structure, a record of authorised officers and/or a scheme of financial delegation.

#### **D.8.2 Virements - Capital Programme**

Corporate Management Team shall consult with the Director of Finance on planned virements within the Capital Programme.

### **D.8.3 Carry Forwards**

The policy in respect of the carry forward of underspendings and overspendings is set out in Standard Financial Procedures paragraph [A.2.2](#).

### **D.8.4 Authorisation Limits to minimise budget pressures**

The Strategic Leadership Board may occasionally put in place authorisation limits so that no expenditure can be incurred over certain limits (e.g. £500) without approval of a member of Corporate Management Team and/or a Strategic Director to safeguard the council's budget position.

### **D.8.5 Ex-Gratia Payments**

Corporate Management Team may authorise ex-gratia payments in respect of minor items of loss or damage to personal property and clothing of employees and customers in respect of services delivered by their directorate.

No ex-gratia payments in excess of £2,500 shall be made without the approval of the Director of Finance.

A complete record of ex-gratia payments made by Corporate Management Team shall be maintained and shall be available to the Director of Finance on request.

### **D.8.6 Write Off of Debts**

No debts due to the Council shall be written off except with the consent of Section 151 Officer or Deputy S151 Officer (i.e. the Director of Finance and their nominated S151 Deputy).

The S151 Officer shall be authorised to write off any debt due to the council subject to the following:-

A full explanation of the circumstances to the satisfaction of the S151 Officer having been provided by the appropriate member of Corporate Management Team;  
All Corporate Management Team members must indicate that they have seen and approve debts, for their services, recommended for write off;

Where in the opinion of the S151 Officer the amount involved is significant in relation to either the accounts of the council as a whole or to the service in question, the circumstances shall be reported to the Policy and Resources Committee.



### D.8.7 Write Off of Stocks and Stores

No deficiency, which occurs in excess of £10,000 shall be written off by a member of Corporate Management Team without the prior approval of the Policy and Resources Committee.

Variations below this figure may be written off by the member of Corporate Management Team with the agreement of the Director of Finance.

A complete record of stocks and stores written off shall be maintained by the appropriate member of Corporate Management Team and retained.

### D.8.8 Retention of Records

Corporate Management Team are responsible for ensuring that electronic and physical records are carefully and systematically filed as they are required for inspection by a number of agencies such as Internal Audit, the external auditors, Department for Works and Pensions, HM Revenue & Customs officials, etc.

In accordance with this, the advised minimum periods for the retention of financial records are detailed below. The list is not exhaustive and where there is uncertainty the advice of the Director of Finance and Head of Law must be sought. Periods referred to are in addition to the current year of account, which ends at the conclusion of the annual external audit of the Council's accounts.

Records held locally in establishments shall be retained in accordance with approved local management schemes.

#### **Schedule for the Retention of Records:**

The schedule below is an extract from the Records Management and Retention Schedules guidance produced by the Head of ICT. This guidance should be referred to for up to date information.

<u>Record</u>	<u>Period (plus current year)</u>
Published Accounts/Annual Reports	Permanently
Taxation Returns	Permanently
Pension Scheme Records	Permanently
Property Deeds of landholdings	Permanently
Loans and investment records	12 years
Bank/Credit Card Statements, Bank credits	7 years
Cheques	7 years
Creditors Invoices	6 years
VAT receipts	6 years
Creditor payment records	6 years
Copy Orders	3 years
Prime Salaries & Wages notifications	3 years

Copy payslips	7 years
Issue of Cards	7 years
Record of ex gratia payments	5 years
Contracts and Supporting Documents - under seal	*12 years
(*after contract ends)	
Contracts let in accordance with Standing Orders	*6 years
(*after contract ends)	
Stock/Stores Records	6 years
Stock Write Off and Debt Write Off records	5 years
Bank Paying-in books	3 years
Till Rolls	3 years
Receipt Books	3 years
School Meal Records	3 years
Audit Trails of computer system security related events	3 years
Application control, error and exception reports	3 years
Budget Working papers	3 years
Final Accounts working papers	3 years after the accounts have been signed

**E EXTERNAL ARRANGEMENTS**

**E.1 PARTNERSHIPS**

**Why is this important?**

Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user needs.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

**Key Controls**

The key controls for council partners are:

- if appropriate, to be aware of their responsibilities under the authority's Financial Regulations and the code of practice on tenders and contracts;
- to ensure that risk management processes are in place to identify and assess all known risks;
- to ensure that project appraisal processes are in place to assess the viability of a project in terms of resources, staffing and expertise;
- to agree and accept formally the roles and responsibilities of each of the partners involved in the project or services before commencement;
- to communicate regularly with other partners so that problems can be identified and shared to achieve their successful resolution.

**Responsibilities of the Director of Finance**

To ensure that any partnership arrangements are underpinned by clear and well documented internal financial controls.

To advise on the key elements of funding a project or service. They include:

- a scheme appraisal for financial viability in both the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues;
- audit, security and control requirements;
- management of underspends and overspends;
- carry-forward arrangements;
- recovery of overheads.

To ensure that the accounting arrangements are satisfactory and that statutory and other accounts and associated claims and returns in respect of grants are prepared.

To maintain a corporate register of partnerships.

#### Responsibilities of Corporate Management Team

To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Director of Finance.

To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.

To ensure that such agreements and arrangements do not impact adversely upon the services provided by the council.

To ensure that all agreements and arrangements are properly documented and appropriate legal advice sought, particularly for large scale partnerships such as S75 Health Act 2006 health and social care partnerships.

To provide appropriate information to the Director of Finance to enable a note to be entered into, or a memorandum account added to, the council's Statement of Accounts, and possible consolidation under group accounts, concerning material items.

## **E.2 EXTERNAL FUNDING**

### **Why is this important?**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the Lottery Fund or from European sources can provide additional resources to enable the relevant partnership to deliver services to the local community. However, in some instances, although the

scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the council's overall plan.

### **Key Controls**

The key controls for external funding are:

to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;

to ensure that funds are acquired only to meet the priorities approved in the policy framework by Full council, but it is local or sub-regional partnerships that bid for these funds, not always the council;

to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

to ensure that any potential ongoing commitments from projects or partnerships are properly identified and considered at the outset.

### **Background**

The significant sources of external funding currently accessed by Brighton & Hove City Council or local partnerships include:

- Direct European Union funding;
- European Union programmes e.g. INTERREG;
- UK Government programmes;
- UK funding programmes, e.g. Heritage Lottery Fund.

Numerous other external funding sources exist which may be accessed by the council or local partnerships. If further guidance is required advice should be sought from the Director of Finance or Head of Policy & Performance.

It is generally the practice that the council acts as the Accountable Body for externally funded programmes. The function of the council as Accountable Body is to take financial responsibility for the funding programme, irrespective of the council's level of involvement in the individual projects within the programme. Included within the financial responsibility of the Accountable Body is the requirement to repay to the grant funding authority all sums of grant aid advanced to any project which;

fails;

expends funding outside the terms of its grant agreement;

has inadequate records to verify its expenditure;

has inadequate records to verify its outputs;  
disposes of capital assets acquired with grant funding;  
in any material respect contravenes its funding agreement.

Given that some projects involve very substantial sums, the potential detrimental effect upon the council is self-evident. Hence the need for these specific financial regulations applicable to external funding.

### **Matched Funding**

External funding rarely covers the entire project cost and grant aid is normally provided on a “matched funding” basis whereby the grant funder provides an agreed percentage of funds and the balance must be ‘matched’ by other funding provided by the applicant. Match funding may be either in cash or in kind. When matched funding is provided by the council, it affords the opportunity for increased service provision. However, many projects have a lifetime of 3 to 5 years, but can be as long as 7 years. Consequently, when supporting a project, services must consider the long-term impact this will have on their capital and revenue budgets. There is a danger of entering into commitments that cannot be met through council funds. For this reason it is a requirement that at the inception of any project proposal involving external funding, either capital or revenue, the Director of Finance must be notified immediately.

Before any contractual obligations are entered into, for any internally managed project, or an externally managed project to which council funds are being contributed, a report must be submitted to Policy and Resources Committee for approval of the project if there is any match funding and/or the council’s contribution is in excess of £50,000 and budgetary provision has not previously been approved. This approval needs to be well planned and may need to twin track with any bidding process to ensure that when the outcome of the bidding process is announced, officers are in a position to enter into contract negotiations having already gained the approval of the Policy and Resources Committee.

When a report is sent to the Policy and Resources Committee requesting the approval of a project, the funding for that project must have been agreed amongst participating services, and that agreement must be in writing and appended to the report. When external partners are involved, written confirmation of their financial commitment must be obtained, on headed paper, and signed by an appropriate officer of the organisation (e.g. if a body corporate, either a director or the company secretary). The written confirmation of each external partner must also be appended to the committee report.

The Policy and Resources Committee report must contain a paragraph summarising the sources of internal funding and any funding in kind proposed. The paragraph must reference an annex, which provides a detailed budget of the intended project, showing the estimated cost by each expenditure heading and the total cost of the project. The financing of that total cost must equal the funds to be made available internally, from external partners and from the external funding agency. No project may be submitted for approval where the funding arrangements are incomplete.

### **Delivery Partnerships**

The council acts as the Accountable Body for various funding streams and is formally accountable for the delivery of agreed action plans.

The Accountable Body, acting for the appropriate partnership, must ensure that the requirements set out in funding agreement letters and in government department manuals are complied with.

### **Forward Funding**

Where the council makes an advance, grant or other financial assistance to any person (under s1 of the Localism Act 2011, s2 of the Local Government Act 2000 or any other relevant power) to finance revenue or capital expenditure pending receipt of the external grant, the amount of funding is limited to the forecast value of the quarter's claim which is being advanced. No further forward funding will be made available until a project sponsor organisation has provided satisfactory evidence to enable the council to make a grant claim to the grant funding authority. Forward funding will only be considered where the project has had formal approval and is supported by an appraisal.

In the exceptional circumstances of programmes funded by European Union funds, this rule is varied to allow forward funding over a longer duration. Under European Union grant rules the final payment of grant cannot usually be made until all projects in a programme have submitted their final audited grant claim.

Any external programme that requires forward funding pending the receipt of grant income is subject to approval by the Policy and Resources Committee. The approval will set the maximum limit for the forward funding. The Director of Finance would then have delegated authority to approve forward funding requests for individual projects up to that maximum limit for the programme.

When forward funding with a projected value of less than £100,000 in each quarter is requested by a project, approval for the forward funding, for the duration of the project, must be given by the relevant member of Corporate Management Team.

If at any time it becomes evident that forward funding in excess of £100,000 will be required in a future quarter, then a separate report must be submitted to the Policy and Resources Committee by the appropriate member of Corporate Management Team requesting authority to forward fund for the duration of the project.

The forward funding of voluntary and community-based organisations that seek to implement projects for Brighton & Hove must comply with the funding agreement.

### **Funding Agreements**

A partnership deed must be signed by the project sponsor organisation and the council, for each project undertaken within any grant funding programme.

### **Responsibilities of the Director of Finance**

To ensure that all funding notified by external bodies is received and properly recorded in the council's accounts.

To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

To issue grant claims procedures to ensure that grant claims are submitted on time to the appropriate funding body and to ensure that audit requirements are met.

### **Responsibilities of Corporate Management Team**

To comply with corporate guidance or protocols in respect of bidding activity for external funds. This is designed to ensure that:

- the quality of bids is improved, increasing the chance of success;

- bids are linked with partners wherever possible, thereby avoiding duplicated or conflicting bids likely to be rejected by funders due to the lack of a joined-up approach;

- management and staff are supported to navigate complex bidding processes;

- where possible, information on external funding is collated across the authority.

To comply fully with Financial Regulations including Standard Financial Procedures and in particular to ensure that the Policy and Resources Committee approves reports for externally funded projects after full consultation with the Director of Finance.

To ensure that all claims for funds are made by the due date in accordance with procedures issued by the Director of Finance. All



Government grant claims or claims for externally funded schemes must be examined and certified by the S151 Officer or Deputy and authorised in writing.

All grant claims should be accompanied by the Grant Claim header sheet where applicable and a detailed reconciliation to the council's main financial system.

To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded in accordance with Financial Regulations and any specific requirements of the funding body.

Copies of notifications from Government Departments including consents, approvals, regulations, circulars and letters in any way relating to finance shall be forwarded by Corporate Management Team immediately to the Director of Finance.

### **E.3 WORK FOR THIRD PARTIES**

#### **Why is this important?**

Current legislation enables the council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is within the legal powers of the council.

#### **Key Controls**

The key controls for working with third parties are:

- to ensure that proposals are costed properly in accordance with guidance provided by the Director of Finance;
- to ensure that contracts are drawn up using guidance provided by the Director of Finance and that the formal approvals process is adhered to;
- to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

#### **Responsibilities of the Director of Finance**

To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

#### **Responsibilities of Corporate Management Team**

To ensure that the approval of the Policy and Resources Committee is obtained before any negotiations are concluded to work for third parties.

To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Finance.

To ensure that appropriate insurance arrangements are made.

To ensure that the council is not put at undue risk from any bad debts.

To ensure that no contract is subsidised by the council.

To ensure that, wherever possible, payment is received in advance of the delivery of the service.

To ensure that the member of Corporate Management Team's staff have the appropriate expertise to undertake the contract.

To ensure that such contracts do not impact adversely upon the services provided for the council.

To ensure that all contracts are properly documented.

To provide appropriate information to the Director of Finance to enable a note to be entered into the Statement of Accounts and possible consolidation under group accounts.

## **SCHEDULE OF OFFICER RESPONSIBILITIES**

### Monitoring Officer

Financial Regulations including Standard Financial Procedures refer to the Monitoring Officer. The Head of Law is responsible for this role.

### Chief Finance Officer

The role of Chief Finance Officer (S151 Officer) is undertaken by the Director of Finance. He/she is also responsible for strategic risk management.

### Deputy Chief Finance Officer (Deputy S151 Officer)

This role is currently held by the Head of Financial Services. This role deputises for the Chief Finance Officer in relation to the statutory requirements of Section 151 of the Local Government Act 1972. The Deputy CFO role does not include authority awarded to the Director of Finance under the Scheme of Delegation to Officers.

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## PART 7.5 - CONTRACT STANDING ORDERS

### General

#### Contract Standing Order 1: Interpretation

1.1 In these Contract Standing Orders, the following terms have the following meanings:

"Approved List"	a list drawn up for corporate use under CSO 6
"Budget Holder"	a Council Employee who is accountable for a defined budget, and is responsible for committing expenditure against that budget in accordance with the Council's Financial Standing Orders and Regulations
"Contract Consultant"	any person not being an employee of the Council who is acting for the Council in relation to a Contract or proposed Contract
"Contract"	any agreement for the supply of goods, services, or the execution of works to or for the Council including the use of consultants but excluding the use of external solicitors and Counsel instructed by the Head of Law. The sale of land is specifically excluded from this definition of "Contract".
"Contract Officer"	a Council Employee authorised to deal with Contracts in accordance with CSO 3.1
"Contractor"	the party or potential party to a Contract
"Council"	Brighton & Hove City Council
"Council Employee"	any person employed on a permanent, temporary or agency arrangement by the Council
"CSO"/ "CSOs"	Contract Standing Order/ Contract Standing Orders
"EU"	European Union
"EU Public Procurement Directives"	EU Directive 2004/18/EC This directive consolidates all previous directives relating to public works, supplies (goods) and service contracts and any

	Directives and Regulations by which it is applied, extended, amended, consolidated or replaced and any re-enactment thereof
“EU thresholds”	EU and Government Procurement Agreement thresholds for advertisement of goods, works and services contracts as advised by the Government (as of 1 January 2010 at £156,442 for goods and services contracts and £3,927,260, for works contracts)
“Framework Arrangements”	Zero value contracts for goods, services or works under which terms, conditions, quality standards and prices are agreed in accordance with EU Public Procurement Directives
“Lists”	Framework Arrangements and Approved Lists
“Most Economically Advantageous Tender”	A process of determining the best bid using weighted criteria. See CSO 13
“OJEU”	Official Journal of the European Union
“Procurement Guidance”	Corporate Procurement’s Codes of Practice (including the Procurement Toolkit), model contracts and other guidance which supplements these CSOs
“Procurement Strategy Manager”	The person appointed by the Council as the Procurement Strategy Manager or any Member of the Corporate Procurement Team authorised by him/her to act on his/her behalf.
“Senior Officer”	Lead Commissioner, Head of a Delivery Unit or Head of a Resource or Finance Unit
“UK Regulations”	Public Contracts Regulations 2006 (SI 5/2006) as amended
“works” “supplies” & “services”	as defined in the EU Public Procurement Directives (“supplies” are also referred to as “goods” in these CSOs)
“Strategic Director”	The Chief Executive, Strategic Directors of People, Place, Resources and Communities, the Director of Finance and

the Lead Commissioner for Adult Social Care and Health.

- 1.2 The Chief Executive, after consultation with the Monitoring Officer and the Chief Finance Officer, may change the thresholds in Contract Standing Orders annually (or as appropriate) to take account of changes in the retail price index and other factors so that the effectiveness and impact of the thresholds is maintained.

### **Contract Standing Order 2: Compliance with Contract Standing Orders and Legislation**

- 2.1 The Monitoring Officer in consultation with the Procurement Strategy Manager shall compile and maintain CSOs and advise on their implementation and interpretation.
- 2.2 Every Contract made by the Council or on its behalf shall comply with the EU Treaty, the EU Public Procurement Directives and all relevant EU and domestic legislation, CSOs, and the Council's Financial Regulations. EU and UK legislation will always override the provisions of these CSOs.
- 2.3 Contractors, Contractors' employees, subcontractors and agents utilised by the Council shall be required to, at all times, comply with the requirements of the Health & Safety at Work etc Act 1974, all secondary legislation made under that Act and all other Acts, Regulations, Orders or Rules relating to Health & Safety. All contracts shall reflect these requirements and reference to the Council's Health & Safety Code of Practice should be made in this regard.
- 2.4 The Corporate Procurement Strategy and Procurement Guidance held and disseminated by the Procurement Strategy Manager, shall supplement these CSOs, but these CSOs will always take precedence over the provisions of such Procurement Guidance.
- 2.5 It shall be a condition of any Contract between the Council and anyone who is not a Council Employee, but who is authorised to carry out any of the Council's contracts functions, that they comply with CSOs, and the Financial Regulations of the Council as if they were Council Employees.

### **Contract Standing Order 3: Scheme of Delegation/Authorisation**

- 3.1 Each Strategic Director has unrestricted delegated power to agree to the Council entering into Contracts up to the sum of £500,000. Above this sum and before inviting expressions of interest from potential bidders, Council Employees must seek approval from the relevant Committee. All Budget Holders (in relation to expenditure within their allocated budgets), Senior Officers, and Contract Officers authorised by the relevant Strategic Director or Senior Officer may agree to the

Council entering into Contracts of up to £250,000 in value. Such authorisation may be expressed or implied from the duties attached to the Contract Officer's post.

- 3.2 Where a Strategic Director is unavailable or otherwise unable to act, his/her functions under these CSOs may be discharged by the relevant Senior Officer.

#### **Contract Standing Order 4: Declarations of Interests**

- 4.1 At the beginning of any Contract process the following persons shall declare any interest, as defined in the Code of Conduct for Employees set out in the Council's constitution, which may affect the Contract process: -
- (a) all Council Employees
  - (b) Contractors
  - (c) Contract Consultants
  - (d) any other person involved in the contract process
- 4.2 Strategic Directors and Senior Officers shall ensure that all Council Employees within the categories set out in CSO 4.1 and all Contract Consultants and Contractors appointed by them make written declarations of interest on their appointment and as required on any change in circumstances. Interests of Council Employees will be reviewed annually, either at the end or beginning of the financial year. The relevant Strategic Director or Senior Officer shall either certify interests as acceptable or take any necessary action in respect of potential conflicts of interest.
- 4.3 Strategic Directors and/or Senior Officers shall keep completed Council Employee declarations on the register of staff declarations indicating the names and grades of those declaring an interest and the nature of their interest.
- 4.4 Strategic Directors and/or Senior Officers shall keep completed Contract Consultants' and Contractors' declarations of interest and relevant Council Employees' declarations affecting the Contract on the contract file.
- 4.5 If a Council Employee within the categories set out in CSO 4.1 knows that a Contract in which he/she has a pecuniary interest is before the Council, and is not the subject of an existing declaration, he/she must immediately give written notice of his/her interest to the relevant Strategic Director or Senior Officer and take no part in the contract process.
- 4.6 A register of interests under CSO 4 may be a separate register or form part of a general register of declarations of interest as the Strategic Director or Senior Officer considers appropriate.



## **Contract Standing Order 5: Public Notices**

- 5.1 Where, by virtue of these CSOs or by some other authority, public notices or advertisements are required they shall be placed in at least one relevant local publication and on the Council website ten days or more before expressions of interest are required by the Council. Where the estimated total value of the Contract exceeds £100,000, the notice or advertisement shall be placed in at least one newspaper or journal circulating among such persons or bodies who undertake such Contracts. The requirement to give notice in a local newspaper may be dispensed with if the relevant Strategic Director or Senior Officer certifies that there are insufficient Contractors in the locality.
- 5.2 All Contracts whose value exceeds the relevant threshold of the EU Public Procurement Directives shall also be advertised in OJEU.

## **Approved Lists, Framework Arrangements and Single Contract Lists**

### **Contract Standing Order 6: Approved Lists**

- 6.1 The Head of Property and Design may compile and maintain Approved Lists of Contractors for works and works related service Contracts (construction related Contracts), each of which is below the relevant EU threshold. The Procurement Strategy Manager may compile Approved Lists for Contractors for the supply of goods and other services as appropriate.
- 6.2 Approved Lists:
- (a) shall be established by advertised competition (subject to CSO 6.3) and where possible formalised by Framework Agreements;
  - (b) shall contain the names and addresses of all Contractors who meet the Approved List criteria.
  - (c) shall indicate the nature and value of Contracts for which the Contractors listed may be used. The value may not exceed the relevant EU threshold.
  - (d) where maintained internally by the council shall be reviewed in full at least every three years in addition to a review of the use of external providers of such lists.
- 6.3 Construction Line and standing lists of providers maintained by other public sector bodies compiled following responses to a public advertisement shall be deemed to be Approved Lists for the purpose of these CSOs.

- 6.4 In addition Strategic Directors with the assistance of the Procurement Strategy Manager may set up Framework Arrangements in line with EU Public Procurement Directives with one or more suppliers of particular types of goods or services.
- 6.5 The criteria for admission to and suspension and exclusion from internally maintained Approved Lists shall be specified in writing by: -
- (a) the Procurement Strategy Manager, for goods and services
  - (b) the Head of Property and Design for works and works related services
- 6.6 Any Contractor may, by giving written notice to the Council, withdraw from any Approved List.
- 6.7 Where there is no Approved List or Framework Arrangement, Strategic Directors and Senior Officers shall use an approved tender procedure in accordance with Procurement Guidance.

### **Preliminary**

#### **Contract Standing Order 7**

*[No longer used]*

#### **Contract Standing Order 8: Contract Value and Aggregation**

- 8.1 Council Employees shall estimate and record the total value of a proposed Contract net of VAT.
- 8.2 Contracts must not be artificially separated so as to circumvent the application of any CSO or of the EU Public Procurement Directives or UK Regulations.
- 8.3 The total value of Contracts for works, services or supply of goods are estimated to be the same as the total consideration to be payable over the term of the Contract by the Council to the Contractor. Where the Contract period is indefinite or uncertain then the estimated total value is calculated by assuming a four-year term.

### **Requirement to Obtain Tenders**

#### **Contract Standing Order 9: Tendering Procedures**

- 9.1 Where procurement of goods, services or works is required and the estimated total value of the Contract is in excess of the relevant EU threshold, EU public procurement procedures will be followed as set out in the UK Regulations and these shall prevail over tendering procedures set out in these CSOs. For most goods, services and works

Contracts the restricted, open, or competitive dialogue procedure will be used. For Private Finance Initiative, Public Private Partnership and similar procurement arrangements introduced by the Government, where the total Contract value is in excess of the relevant EU threshold, the restricted or competitive dialogue procedure will be used.

- 9.2 The Council may procure goods, services or works to any value in collaboration with other local authorities or other public or voluntary sector bodies. Where the Council is the lead buyer within the consortium of the goods, works or services contracted for, these CSOs shall apply. Where the Council is not the lead buyer, procurement procedures shall follow the spirit of these CSOs, be in accordance with EU Public Procurement Directives and UK Regulations, and approved by the relevant Strategic Director or Senior Officer on the advice of either the Procurement Strategy Manager or the Assistant Director, Property and Design.

#### **Contract Standing Order 10: Contracts Not Exceeding £25,000**

- 10.1 Where the appropriate Strategic Director or Senior Officer estimates the total Contract value for goods, services or works is unlikely to exceed £25,000 (in the case of Consultants is unlikely to exceed £10,000) and there are suitable Framework Arrangements available, those Framework Arrangements shall be used. Where no Framework Arrangements are available competitive quotations in writing on the basis of Most Economically Advantageous Tender should be sought, or a commercial negotiation with one preferred Contractor may take place. In the latter case the Strategic Director or Senior Officer shall certify that Procurement Guidance has been followed and that the Council shall receive value for money.
- 10.2 Contracts with an estimated total value not exceeding £25,000 shall be evidenced in writing in simple cases by the receipt of written quotations from Contractors or by sending orders to Contractors under Framework Arrangements. In the case of consultants (whatever the value) and in all other cases formal written Contracts shall be completed.
- 10.3 Although the tendering procedures for Contracts not exceeding a total value of £25,000 are less formal than for Contracts of greater amounts, Officers should at all times bear in mind the need to seek value for money and be able to demonstrate that they have obtained it.

#### **Contract Standing Order 11: Contracts Exceeding £25,000 and Not Exceeding £75,000**

- 11.1 Where the appropriate Officer estimates the total Contract value is likely to be greater than £25,000 (in the case of Consultants greater than £10,000) and not exceeding £75,000 and one or other of the Lists is available then at least four competitive tenders in writing shall be sought from Contractors on the relevant List.

- 11.2 In the absence of Lists being available an approved tender procedure shall be used in accordance with Procurement Guidance.
- 11.3 In either case, if less than four suitably qualified tenders are available, the Contract Officer must consult with the Procurement Strategy Manager.
- 11.4 Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender. At least two bona fide tenders must be received and the Most Economically Advantageous Tender accepted.
- 11.5 If only one compliant tender is received, the Contract Officer must consult with the Procurement Strategy Manager and provide evidence to show that the Council can obtain value for money.
- 11.6 Contracts with an estimated total value greater than £25,000 and not exceeding £75,000 shall be evidenced in writing in simple cases by the receipt of a written quotation and the delivery of an official order form, in the case of consultants and in all other cases by the completion of a formal written Contract.

#### **Contract Standing Order 12: Contracts Exceeding £75,000**

- 12.1 Where the appropriate Officer estimates that the total value of a Contract is likely to exceed £75,000 and one or other of the Lists is available, then at least five tenders will be sought from Contractors on the relevant List.
- 12.2 In the absence of Lists being available an approved tender procedure shall be used in accordance with Procurement Guidance and, where applicable, in accordance with the EU Public Procurement Directives and UK Regulations and at least five tenders must be sought.
- 12.3 If less than five suitably qualified tenders are available, the Contract Officer must consult with the Procurement Strategy Manager.
- 12.4 Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender.
- 12.5 At least two compliant tenders must be received and the Most Economically Advantageous Tender must be accepted. Notwithstanding CSO 12.7, if only one compliant tender is received, the Contract Officer must consult with the Procurement Strategy Manager and provide evidence to show that the Council can obtain value for money.

- 12.6 In the case of Contracts with an estimated total value over £75,000 the Contract shall be in a form approved by the Monitoring Officer and shall be given under the Common Seal of the Council.
- 12.7 Where the estimated total value of the Contract is such that the Council is required by law to comply with the EU Public Procurement Directives the requirements thereof shall be complied with and the tender procedures set out in these CSOs shall be deemed to be satisfied by such compliance.
- 12.8 Decisions relating to the Contract process for Contracts exceeding the thresholds for the EU Public Procurement Directives shall be made by the Strategic Director or Senior Officer in consultation with either:
- (a) the Procurement Strategy Manager, for goods and services Contracts; or
  - (b) the Head of Property and Design for works Contracts.
- 12.9 Social care Contracts must be procured in accordance with the EU Public Procurement Directives and UK Regulations, but are otherwise exempt from CSOs 10-12 save for the requirement to demonstrate obtaining value for money.

### **Tendering Process**

#### **Contract Standing Order 13: Delivery Opening and Evaluation of Tenders**

- 13.1 All tenders for any Contract estimated to be under a total of £75,000 in value shall be returned to the Strategic Director or Senior Officer inviting the tender (or his/her nominee), or as otherwise indicated in CSOs, in envelopes which shall bear no mark to identify the sender. The Officer shall be responsible for ensuring that a record of all such tenders received is kept.
- 13.2 For Contracts with an estimated total value exceeding £75,000 all tenders shall be returned as appropriate to the Head of Property and Design or the Procurement Strategy Manager in envelopes, which shall bear no mark to identify the sender and shall be opened by him/her at the same time in the presence of a Council Employee designated by the relevant Strategic Director or Senior Officer. The Head of Property and Design and the Procurement Strategy Manager shall each maintain a record of all such tenders received by him/her.
- 13.3 All tenders shall be opened at the same time, as soon as is reasonably practicable after the closing date, normally on the closing date. On receipt, all tender envelopes shall be endorsed with the time and date of receipt and kept secure until the time specified for tender opening. Any tender received after the specified time shall not be considered for

evaluation and shall be returned promptly to the tenderer. A late tender may be opened to ascertain the name of the tenderer but no details of the tender shall be disclosed.

- 13.4 Evaluation criteria and weightings for each criterion for both the pre-qualification and the invitation to tender stages shall be determined in advance and included in the invitation to tender. Price shall always be included as a criterion, but will be used as the sole criterion only where the Strategic Director, Senior Officer or the Council Employee preparing the Contract for him/her considers this to be appropriate. Determination of criteria at all stages shall be undertaken in accordance with Procurement Guidance.

#### **Contract Standing Order 14: Contracts Registers**

- 14.1 An electronic register of all renewable Contracts above a total value of £25,000 (and all contracts over £75,000) in value, shall be kept centrally and maintained by each Contract Officer using the Intranet or similar. Such register shall specify for each Contract the Contract number, the name of the Contractor, a summary of the works to be executed or the goods and services supplied and the Contract duration and value or estimated value. The register shall be open for inspection by any Member of the Council.
- 14.2 A renewable contract is a contract that gives either party the right to extend the contract for further period(s) beyond the expiry date.

#### **Contract Standing Order 15: Prevention of Corruption**

- 15.1 A Council Employee must not invite or accept any gift or reward in respect of the award or performance of any Contract. It will be for the Council Employee to prove that anything received was not received corruptly. High standards of conduct are obligatory and corrupt behaviour will lead to dismissal.
- 15.2 The contract process shall ensure that the Council will operate strict separation of duties by ensuring that two authorised Council Employees are involved in the ordering, receiving and payment process. Except for low value orders with a value below £250, there must be a separation of duties between the person authorising an order and the person checking a written invoice or requisitioning the goods or services.
- 15.3 The following clause, (or an equivalent clause in standard forms of contract or other wording as approved by the Monitoring Officer) must be put in every written Council Contract:

*“The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:*

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done); or
- (b) commit an offence under the Bribery Act 2010; or
- (c) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council Members or Employees.

*Any clause limiting the Contractor's liability shall not apply to this clause."*

## **Operation of Contract**

### **Contract Standing Order 16: Contract Variation**

- 16.1 Funding must be identified before any variation is approved in accordance with the Council's Financial Regulations. See Financial Regulation D.2.2.17.
- 16.2 Prior approval must be obtained from the appropriate Strategic Director after consultation with the Chair of the relevant Committee, if the proposed variation would together with all other variations to the Contract:
  - (a) extend the Contract value or period by 50% or more; and / or
  - (b) mean the works, services or goods to be added to or deleted from the Contract are substantially different in scope.
- 16.3 Extensions to Contracts exceeding the relevant EU Threshold shall not be permitted unless indicated in the original OJEU notice. For Contracts below the relevant EU Threshold at original award, extensions to such Contracts shall not be permitted if the revised value then exceeds the relevant EU Threshold.

### **Contract Standing Order 17: Contract Award**

- 17.1 No Contract may be awarded unless the expenditure involved has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf, of the Council. The Strategic Director or Senior Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract file.
- 17.2 Each Contract shall be awarded in accordance with evaluation criteria that have been adopted for the Contract. (See CSO 13.4 relating to evaluation.)

## **Contract Standing Order 18: Waivers of Contract Standing Orders**

- 18.1 Special procedural exemptions or waivers may from time to time be given by the relevant Committee to particular classes of Contracts in line with the Council's procurement strategy, as specified in Committee reports.
- 18.2 Subject to CSO 18.6, in relation to Contracts estimated to not exceed a total value of £75,000, a Strategic Director may waive the requirements of any CSO, as long as
- (a) the Procurement Strategy Manager is notified as soon as possible.
  - (b) the Strategic Director certifies in writing to the Procurement Strategy Manager the CSO being waived and the reasons for doing so.
- 18.3 Subject to CSO 18.6, in relation to Contracts estimated to exceed a total value of £75,000, a Strategic Director may, after consultation with the Chair of the relevant Committee and the Procurement Strategy Manager, waive the requirements of CSOs as long as:
- (a) the waiver report (the Report) is compiled after consulting with the Procurement Strategy Manager;
  - (b) the Report is issued setting out the CSO being waived and the reasons for the waiver;
  - (c) the Report includes legal and financial comments and highlights, as necessary, any future commitment (whether of a financial character or not) which the Contract may entail; and
  - (d) the Report justifies the method of Contractor selection so that value for money and compliance with EU and domestic law can be demonstrated.
- 18.4 If an emergency has been declared under the Council's emergency planning or business continuity procedures and it is not possible or practicable for a Council Employee who would normally exercise the powers of waiver under CSO 18.2 and CSO 18.3 to do so, the powers may be exercised by (i) the Council Employee who is designated to be in charge, under those procedures or (ii) any Council Employee appointed by him / her to act on his / her behalf. Further, if it is not possible or practicable for that Council Employee, before exercising the powers under CSO 18.3, to consult the Chair of the relevant Committee or the Procurement Strategy Manager or to issue the necessary Report, the Council Employee may exercise the powers without doing so but shall take such steps as appear appropriate at the time to keep the Chair of the relevant Committee and the Procurement



Strategy Manager informed and shall issue the Report as soon as is reasonably practicable.

- 18.5 A report for information giving a digest of all waivers under CSO 18.2, 18.3 and 18.4 shall be made by the Procurement Strategy Manager covering the previous financial year annually to the Policy and Resources Committee.
- 18.6 For the avoidance of doubt, no waivers may be made so as to alter the full application of CSO 4 (Declarations of Interest), CSO 14 (Contract Registers), CSO 15 (prevention of corruption) CSO 16.3 (Contract Variation), CSO 17 (Contracts Awards), CSO 19 (Risk Management), or to CSO 20 (Negotiation standards) or if such waiver would result in a breach of EU or domestic law, provided that in exceptional circumstances where the Strategic Director is satisfied that a waiver of CSO 16.3 is necessary to ensure the continuity of services, works and/or supplies which would otherwise cease, a waiver of CSO 16.3 may be made so as to permit the continuation of the services, works and/or supplies until a new contract has been let.
- 18.7 A register of all waivers will be maintained by Property and Design and kept available for inspection by the public with reasonable notice during working hours.

#### **Contract Standing Order 19: Risk Management**

- 19.1 A database of procurement clauses that minimise unnecessary Contract risk shall be kept and maintained by Legal Services.
- 19.2 Contracts with a total value exceeding the thresholds for the EU Public Procurement Directives shall not be let without reference to this database.

#### **Contract Standing Order 20: Negotiation**

- 20.1 Procurement of goods, services and works shall normally be through the competitive tendering process set out in these CSOs. Under these CSOs negotiation with one Contractor is normally only permissible for very low value Contracts as set out in CSO 10 or when using the EU Competitive Dialogue Procedure under CSO 9. Where negotiation is undertaken this shall be conducted having regard to the Negotiation Code of Practice.

## **PART 7.6 OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Introduction**

- 1.1 These rules are intended to give effect to the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 and will form the standing orders prescribed therein regarding employment matters.

### **2. Interpretation**

- 2.1 For the purposes of these Officer Employment Procedure Rules the following words shall have the following meanings-

"Head of Paid Service" means the Chief Executive of the Council

"Chief Officer" means, subject to the following provisions the Strategic Directors of-

- Communities
- People
- Place
- Resources

and the Director of Finance.

"Deputy Chief Officer" means, a Lead Commissioner, Head of a Delivery Unit or Head of a Resource or a Finance Unit

### **3. Recruitment and appointment – general**

#### **3.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or an officer of the Council; or of the partner of such persons; or have a personal friendship with a Member of the Council
- (b) No candidate so related to a Member or an officer or a personal friend of a Member will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **3.2 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 Member for any appointment as an officer with the Council. The

content of this paragraph will be included in any recruitment information.

- (b) Subject to paragraph (c) below, no Member will seek support for any person for any appointment as an officer with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a Member from giving written reference for a candidate for submission with an application for appointment

#### **4. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers**

4.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:

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

#### **5. Appointment of Head of Paid Service**

5.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council.

#### **6. Appointment of Chief Officers and Deputy Chief Officers, the Monitoring Officer and the Chief Finance Officer; and administrative arrangements**

6.1 A Committee or Sub-Committee of the Council will appoint Chief Officers, Deputy Chief Officers, the Monitoring Officer and the Chief Finance Officer providing that the Chief Executive (in relation to Chief Officers or Heads of Delivery Units) or the relevant Strategic Director (in relation to Lead Commissioners, Heads of Resource Units or Finance Units as appropriate) may appoint such officers where the appointment is on an Acting basis or where the appointment is of a candidate recommended by a selection panel consisting of Members.

6.2 Whenever a Panel is convened in accordance with paragraph 6.1 above, it shall be constituted as follows:

- The Panel shall consist of 6 Members appointed to reflect the political composition of the Council providing all the Groups in the Council are represented.
- The Strategic Director of Resources shall appoint Members of the Panel in accordance with the wishes of the relevant Group/Convenor.
- The Panel shall be chaired by a member of the Group with the largest number of seats in the Council.
- The Panel shall endeavour to reach a decision by consensus. If there is no consensus, the matter shall be put to a vote. If there is an equality of votes, the Chair shall have a casting vote.
- The Strategic Director of Resources is authorised to take all steps necessary or incidental to supporting this appointments process

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## 7. Statement of Pay Policy

7.1 A statement on the Council's pay policy will be published annually.

## 8. Remuneration of Senior Officers

8.1 The Chief Executive may consult the Panel set up under paragraph 6.2 above in connection with the remuneration of Chief Officers as defined in section 43 of the Localism Act 2011 and in connection with the statement of pay policy under section 38 of the Localism Act 2011.

## 9. Other Appointments

9.1 **Officers below Deputy Chief Officer.** Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his or her nominee, and may not be made by Members.

9.2 **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group if such an appointment is made.

## 10. Disciplinary Action - Head of Paid Service, Monitoring Officer and Chief Finance Officer

10.1 **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

10.2 **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

**11. Disciplinary Action - Chief Officers and Deputy Chief Officers**

11.1 A Committee or Sub-Committee of the Council may hear an appeal against disciplinary action or dismissal of a Chief Officer or a Deputy Chief Officer in accordance with the Council's disciplinary procedure rules.

**12. Disciplinary Action - Other Officers**

12.1 Members will not be involved in the disciplinary action against any officer below Deputy Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disability, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action against officers.

**13. Dismissal**

13.1 Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disability, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissal of officers.

## **PART 8.1 – CODE OF CONDUCT FOR MEMBERS**

### **NOTE:-**

1. This Council's current Code of Conduct and Register of Members' Interests will have to be replaced, probably on 1 July 2012, with a Code and a new Register as required by Chapter 7 of the Localism Act.
2. Until the government makes regulations defining the circumstances in which a pecuniary interest must be declared, it is not possible to finish drafting the new Code or the new Register.
3. The new Code and (because it depends on the content of the Code) the new Register will be for full Council to approve. Standards Committee will report on these matters as soon as the relevant regulations have been made by the government.
4. Accordingly, the report to the Governance Committee on 20 March 2012 and Council on 26 April 2012 proposes no amendments to the current Code or the current Register and neither are included in this set of constitutional documents.

## **PART 8.2 – PRACTICE NOTE ON PUBLICITY AND THE USE OF COUNCIL FACILITIES**

### **1. Introduction**

- 1.1 This practice note (i) sets out the council's requirements in respect of publicity and the use of council facilities (these requirements are shown in *italics*); and (ii) provides guidance for Members of the council (councillors) on their application.
- 1.2 There are restrictions imposed on councillors' use of council facilities, including publicity, under the council's Code of Conduct for Members. Any use in breach of the Code may render a councillor liable to sanctions.

### **2. The Code of Conduct**

- 2.1 *Paragraph 6 of the General Obligations states that a Member -*
- (a) must not use or attempt to use his or her position as a Member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and*
  - (b) must, when using or authorising the use by others of the resources of the authority*
    - (i) act in accordance with the authority's reasonable requirements; and*
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).*
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.*
- 2.2 The duty of councillors is not limited to official business coming for consideration before the council or its committees, but extends to councillors' roles as community councillors. Councillors should, however, not use any facilities provided by the council for private purposes or other business (such as party political publicity) which cannot be justified as being part of their role as a councillor. Occasional use of the telephone in the event of an emergency is acceptable e.g. to notify a childminder that a meeting is running later than anticipated.

### **3. Restrictions on Political Publicity**

- 3.1 *The Local Government Act 1986 prohibits Local Authorities from publishing material which, in whole or part, appears to be designed to affect public support for a political party. This prohibition extends to providing financial or other assistance (e.g. making facilities available) to another person to engage in such publicity.*
- 3.2 Local authorities are required by section 4(1) of the 1986 Act to have regard to any code issued under the Act. Under that provision, the

government has issued a Code of Recommended Practice on Local Authority Publicity, last revised in March 2011. The Code states that publicity by local authorities should:

- be lawful
- be cost effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

3.3 The notes below summarise points to be taken into account in assessing whether publication in a particular case might be seen as "party political", with particular regard to the publicity about individual councillors, and therefore contrary to the 1986 Act and the Code made under it..

- There is no hard and fast rule as to whether a publication is "party political" or one provided by a member legitimately in his or her role as a councillor. One has to take all relevant considerations into account, including the content and style of the material, the time and circumstances of publication, whether the material refers to a political party or to persons identified with a political party, whether it promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another, and whether the material is part of a campaign, the effect which it appears to be designed to achieve etc. The responsibility is on the councillor concerned to assess the circumstances and avoid using council facilities for anything that may amount to or be perceived as political publicity.
- Publicity about individual councillors may include the contact details, the positions they hold in the council (for example, Chair of a particular committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the council, personalisation of issues or personal image making should be avoided.
- Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.



- 3.4 Any councillor involved in producing a ward newsletter or similar publication with funding from the council must have regard to the above and to the guidelines issued by the Monitoring Officer which were approved by the Standards Committee on 18 September 2007. The guidelines are available from the Head of Democratic Services.
- 3.5 All councillors who set up web pages accessible through the council's web-site agree to comply with the requirements established by Democratic Services and approved by the Standards Committee on 12 September 2006. Compliance with these requirements will help councillors to conduct their web pages in accordance with both the Code of Publicity and the Code of Conduct. They are available from the Head of Democratic Services

#### **4 Use of council facilities**

##### **4.1 Accommodation**

4.2 *Meeting rooms provided for use by councillors should be used only for meetings relating directly to the functions of the council (which includes the executive) and should not be used for meetings, which are primarily related to private or party political business, or election and referendum campaigns.*

4.3 The distinction between party business and council business is not always clear. What is clear is that they are not necessarily mutually exclusive. Where a political group discusses a matter coming up for decision before Council or any council committee, this would be council business. On the other hand, where a party group discusses internal constitutional or political issues unrelated to functions of the council, this would be party business. Councillors and officers need to use their judgement in less clear-cut cases or ask for advice from the Monitoring Officer.

4.4 It should also be noted that the commercial hire of council buildings (e.g. Brighton Centre or The Dome) for meetings would not be affected by these restrictions.

##### **4.5. Council stationery**

4.6 *Councillors should only use official council stationery, including compliment slips and headed notepaper in connection with matters relating to their capacity as a councillor. It should not be used by councillors in connection with their private affairs or in relation to party political business that is not directly related to council functions.*

4.7 Examples of situations where the use of headed paper would be inappropriate might include the following.

- A letter sent by a councillor in support of his or her child's school admission application.
- A letter sent by a councillor in support of his or her own planning application.
- A letter of complaint to a private company about services provided to the councillor in his or her private capacity.
- A letter on a political issue of controversy unconnected with the council's functions.

4.8 Instances such as these could lead to complaints that the councillor was improperly using his or her position as a councillor to influence the outcome of a particular matter (see paragraph 6 of the Code of Conduct set out above).

#### **4.9. IT**

4.10 *Councillors should be aware that the IT equipment provided to them is provided on the understanding that it is for council business use and should not be used in connection with party political business that is not directly related to council functions.*

4.11 It is recognised that this may present some practical difficulties where councillors are using personal computers provided for council use at home. It would be unreasonable to expect councillors to use a separate PC for example to reply to an e-mail relating to a personal matter. It is therefore recognised that some private use of council computers may be unavoidable.

4.12 *Such use is therefore permitted subject to the following conditions.*

- *The IT equipment and related software is not used for any illegal or immoral purpose or any purpose which would be likely to bring the member's office or the council into disrepute.*
- *Councillors must comply with the guidance relating to the use of IT, which may be issued by the council from time to time.*
- *That councillors will pay a monthly fee for the private use of IT equipment, as set by the council from time to time, such fee to be deducted from the monthly allowance paid to councillors.*

4.13 Councillors should also remember that the Code of Conduct specifically prohibits the use of the resources (such as IT equipment) improperly for political purposes, including party political purposes.

#### **4.14. Officer support**

*Staff provided for secretarial, administrative and research support should not be asked to carry out tasks that are related to private or party political business or election and referendum campaigns.*

#### **4.15. Postal services**

- 4.16 *Councillors should not use the council's internal/external mail and courier services for the distribution of material that is primarily related to party political business and/or is not directly related to council functions.*
- 4.17 For example the use of the internal/external mail and courier services to distribute a leaflet advertising a public rally on central government defence spending organised by a councillor on behalf of his or her political party would be inappropriate.
- 4.18 The use of the internal/external mail to distribute election campaign material is also unacceptable.
- 4.19 There are likely to be grey areas here and ultimately it is a question of judgement as to whether the use of the service is appropriate or not.

#### **4.20. Telephones**

- 4.21 *Telephone lines provided for councillors' use including telephone lines installed in councillors' homes should only be used for council business. They should not be used for private (including personal, social or business) calls or for calls relating to party political matters.*
- 4.22 For example, using a council telephone line for telephone canvassing during an election campaign would be inappropriate.
- 4.23 However it is recognised that the use of a council telephone by a member will be unavoidable on some occasions, for example an urgent call to a partner or child-minder to inform them that a meeting is going to over-run. The use of the telephone in such a situation would be acceptable.

#### **4.24. Transport**

- 4.25 *Any parking or bus passes or other transport facilities should be used only in connection with council business.*

#### **4.26. Ward budgets**

- 4.27 *The council has a "ward budget" scheme whereby ward councillors may use money from the budget to hire meeting rooms, for stationery and other support. These should be used strictly for the purposes of discharging councillors' roles as community councillors and in connection with council business.*
- 4.28 More detailed guidelines on Ward Budgets were issued following 18 September 2007 Standards Committee and if councillors require any

further guidance in this area they should contact the Head of Democratic Services.

## **5. Conclusion**

- 5.1. The above guidelines are intended to help councillors decide when council facilities should and should not be used and are intended to help avoid situations where councillors may inadvertently use council facilities inappropriately.
- 5.2. Where there is doubt about whether or not the use of council facilities is appropriate, further guidance and advice can be sought from the Head of Democratic Services (ext 1006), or from the Monitoring Officer.

**PART 8.3 – REGISTER OF MEMBERS' INTERESTS**

SEE NOTE above at **PART 8.1 – CODE OF CONDUCT FOR MEMBERS**

## **PART 8.4 – GUIDANCE FOR MEMBERS AND OFFICERS SERVING ON OUTSIDE BODIES**

### **CONTENTS**

1. Introduction
2. Companies
3. Charities
4. Unincorporated Associations
5. Registration and Disclosure of Outside Interests for Members
6. Disclosure of Outside Interests for Officers
7. Gifts, Hospitality and Bribery

## **GUIDANCE FOR MEMBERS AND OFFICERS SERVING ON OUTSIDE BODIES**

### **1. INTRODUCTION**

- 1.1 This guide is intended to give a general overview of the issues which affect Members and officers who are appointed to outside bodies. The council's Monitoring Officer or legal team will be able to provide further advice to expand upon any of the issues raised.
- 1.2 Each year, either at the council's annual meeting or cabinet meetings, Members are appointed to a range of outside bodies. The list of appointments is published in the minutes of those meetings. Equally, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an elected member of the council, or they may be a serving member of that body before being elected a Member of the council.
- 1.3 The roles of Members or officers on outside bodies will depend upon the legal nature of that organisation and the capacity in which they are appointed to act. It may, for example, involve acting as a company director, the trustee of a charity, or a member on a management committee.
- 1.4 In participating in outside bodies, Members and officers may take account of the council's wishes but they must ultimately make independent judgements in line with their duty of care to the outside body. They must also act according to the framework set by the outside body and take an active and informed role in the management of the outside body's affairs. This involves attending meetings on a regular basis and carrying out their duties to the best of their abilities. In addition, they must follow as far as applicable the council's Code of Conduct for Members or the Code of Conduct for Officers.
- 1.5 Members should be aware that they will have to disclose membership of the outside body in their dealings with the council and where a conflict of interest arises it is likely that they will have to withdraw from any consideration by the council of any matter affecting the outside body. Members should bear this in mind when deciding whether or not to accept a particular nomination. In the case of officers, arrangements should be made to refer the matter to another officer to deal with whenever a conflict of interest arises.
- 1.6 Whilst there is no legal obligation on Members or officers to report back to the council on their involvement in outside companies to which they have been nominated by the council, it is good practice to do so; this is best achieved by way of an annual report to the relevant committee or cabinet meeting.. In the case of officers, their

participation should be discussed on a more regular basis with their line managers at supervision or appraisal meetings.

- 1.7 The most common types of outside bodies in which Members or officers may become involved are considered in more detail below and include:-

- (a) Limited Liability Companies
- (b) Charities
- (c) Unincorporated Associations

- 1.8 Indemnities and Insurance.

1.8.1 The primary responsibility for providing proper indemnities and insurance cover to protect Members and officers when acting for outside bodies lies with those bodies. However, officers will assist in checking that there is a corporate or organisational structure which, on its face, appears adequate and that some form of indemnity exists to provide protection to the council's appointee or nominee.

1.8.2 As there may be occasions when the insurance or other indemnity arrangements made by the outside body prove inadequate to protect the council's appointee or nominee from liability, the council has put in place a general indemnity for its Members and officers so appointed or nominated. It would only apply where the indemnity or insurance offered by the outside body did not provide adequate cover.

1.8.3 Subject to paragraph 1.8.4, the indemnity provided by the council applies only to those officers or Members whom the council has appointed or nominated to an outside body.

1.8.4 Where a Member or officer is serving on an outside body having been nominated by the body itself, or where the Member/officer was already serving on the body when elected a Member of the council/employed by the council, the indemnity would apply only where that Member or officer was acting at the request of, or with the approval of, the council.

1.8.5 The indemnity provided by the council to Members or officers appointed by the council to serve on an outside body is subject to certain requirements and exclusions. In general, the indemnity may only be granted where the Member or officer believed his/her action was within the powers of the council or that the Member or officer believed that statements he/she made relating to the powers of the council were true; and may not be granted in respect of any criminal offence or fraudulent or reckless act taken by the Member or officer. A complete copy of



the indemnity (as approved by Policy & Resources Committee in 2005) may be obtained from the council's legal team.

## **2. COMPANIES**

- 2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of the duties imposed on directors. It is important for Members and officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.
- 2.2 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.
- 2.3 Whether a company is limited by shares or by guarantee, the day to day management of the company is usually vested in the directors. The members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-
- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
  - a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.
- 2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act may be personally liable for any resulting losses.
- 2.5 In general Members and officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the company goes into liquidation. However, all directors,

including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should attend Board meetings regularly. Ignorance of transactions entered into by the company through a failure to make proper enquiries may not be an adequate defence to a charge of negligence brought against such a director.

- 2.6 In some situations, the Council may nominate Members or officers to act as "observers" on the board of directors of a company. Although such observers have no specific legal status, Members and officers should be aware that if an observer's involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a "shadow director" which may entail liabilities. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.
- 2.7 Under the Companies Act 2006 ('the Act'), directors owe a number of legal duties to their company. These are duties to:
- Act within powers (section 171 of the Act)
  - Promote the success of the company (section 172)
  - Exercise independent judgement (section 173). Although it is permissible to take account of the interests of a third party (in this case the council), a director cannot vote simply in accordance with the council's instructions.
  - Exercise reasonable skill, care and diligence (section 174)
  - Avoid conflicts of interest (section 175). There may be actual or potential conflicts between the interests of the company and those of the council. A Member or officer cannot waive their statutory responsibilities as a director; hence they may have to cease to act as a Member or officer in relation to the particular matter. In extreme cases, the only proper way for the conflict to be resolved may be for the Member or officer to resign either from the company or from the council.
  - Not accept benefits from third parties (section 176)
  - Declare interest in a proposed transaction or arrangement with the company (section 177). Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.

Members acting as directors should be aware of these duties, particularly those which could lead to:

- A conflict with their role as member of the local authority (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
- Personal liability for the debts of the company

The fact that a director is appointed to a company board as a representative of the council does not diminish these duties.

### Liabilities and Indemnities

- 2.8 Directors cannot be indemnified by a company against liability arising out of negligence, fraud or breach of duty or trust. The company's Articles of Association may however allow for directors to be indemnified by the company in respect of the cost of defending such proceedings, where the director concerned is granted relief by the court or acquitted.
- 2.9 The Council does have limited powers to provide indemnities for Members or officers when appointing them to act as directors, and to buy insurance to cover any losses which they may suffer through acting conscientiously as a director (see paragraph 1.8.2 above). It is also appropriate for a company to purchase insurance to protect its directors against claims of negligence, breach of trust or duty, or other default. Before taking up an appointment, directors should ensure that such insurance is in place and that the provision of the insurance is within the powers of the company.

## **3. CHARITIES**

- 3.1 Many outside bodies with which Members or officers will be involved will be charities.
- 3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:
- the relief of poverty and human suffering
  - the advancement of education
  - the advancement of religion
  - another purpose for the benefit of the community.
- 3.3 It must operate for the public benefit and have exclusively charitable purposes. It must be registered with the Charity Commissioners. The Commissioner oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.
- 3.4 The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as

'trustees' which will include the directors (of a company limited by guarantee) and the management committee of an unincorporated association.

### **Trustees' Duties**

3.5 Trustees have the following duties:

- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
- (2) A duty to comply with the Charities Acts and other legislation affecting the charity.
- (3) A duty not to make a private profit from their position.
- (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
- (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.

### **Trustees' Liabilities and Indemnities**

3.6 Trustees have the following liabilities:

- (1) To make good any deficiency where trust property has been used for the trustee's own purposes, or for purposes not in accordance with the purposes of the trust.
- (2) Personal liability for losses or claims where the trustee has acted outside the scope of the trust deed.
- (3) Personal liability where the trustee has not shown the required standard of care.

3.7 An indemnity may be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts. If premiums are to be paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.

- 3.8 Further guidance and advice can be obtained from the Charities Commission. A trustee who seeks advice from the Charity Commissioners in a particular situation and acts on that advice will generally avoid personal liability.

#### **4. UNINCORPORATED ASSOCIATIONS**

- 4.1 An unincorporated association is an informal organisation which may arise whenever several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 4.2 The rules governing the members' duties and liabilities will usually be set out in a written constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for the election by the members of a management committee, which will be responsible for the everyday running of the organisation. The constitution may also provide for members to have annual general meetings, to deal with business such as the accounts and the appointment of the management committee.
- 4.3 As the association is not a separate legal entity from its members, it cannot hold property in its own name. Any property which it controls will therefore have to be vested in an individual, or individuals, who are usually called the trustees of the association. They will hold the asset, subject to the direction of the members, or (more usually) the management committee.
- 4.4 Where an unincorporated association is a registered charity the members of the management committee may also be charity trustees. As such their role and responsibilities will be determined not only by the association's constitution but also by the general law relating to trusts and charities as referred to above.

##### **Duties**

- 4.5 The members of the management committee, and the trustees appointed to hold any assets for the association, must act within the constitution, and must take reasonable care in exercising their powers.

##### **Liabilities and Indemnities**

- 4.6 Generally management committee members are liable for the acts or omissions of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.

4.7 Management committee members will have personal liability if they act outside the authority given to them or if they do not comply with the law.

4.8 It is possible (subject to the rules in the constitution) for insurance to be taken out, to cover trustees and members of the management committee for their potential liabilities. As with other outside bodies, Members and officers should satisfy themselves that the organisation has adequate insurance cover in this respect.

## **5. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR MEMBERS**

5.1 In accordance with Part 111 of the Local Government Act 2000, the Council has adopted a Code of Conduct for Members. Each Member of the authority, elected or co-opted, has signed an undertaking to observe the provisions of the Code. The Code of Conduct for Members is set out in full in the Council's constitution (Part 9) and its provisions continue to apply to Members in respect of their appointments to outside bodies.

### **Registration of Interests**

5.2 The Code of Conduct for Members requires every Member to notify the Monitoring Officer of any registrable interests which he/she holds, within 28 days of election or appointment. In addition, the Member must notify the Monitoring Officer of any change in his/her registrable interests within 28 days of becoming aware of that change. A copy of the relevant declaration form and a form for amendments are set out in the Council's constitution at Part 9.2.

### **Disclosure of Interests**

5.3 There are a number of rules which Members must be aware of, which may limit the extent to which they are able to take part in debates or votes on issues. These rules extend to matters involving outside bodies. The rules require that, in certain situations, Members should disclose the fact that they have an interest in the matter under discussion. They may also be required not to take part in any debate or discussion on the matter, and may have to leave the meeting during the item.

### **Personal Interests**

5.4 A Member appointed to an outside body will have a personal interest in that body. Provided that it is not also a prejudicial interest (see below),

the Member only needs to declare the personal interest if and when he/she speaks on the matter at a Council meeting.

### **Prejudicial Interests**

- 5.5 A Member will probably have a prejudicial interest in a matter relating to the outside body if he/she is a member of or in a position of general control or management on the outside body and the interest falls into one of the following two categories:-
- (a) the matter affects the financial position of the outside body (e.g. an application for grant funding to the outside body); or
  - (b) the matter relates to an approval, consent, license, permission or registration that affects the outside body (e.g. an application by the outside body for planning permission).
- 5.6 If a Member has a prejudicial interest in a matter under discussion he/she must declare the nature of that interest as soon as it becomes apparent to him/her. The Member should then leave the meeting room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, the Member can make his/her representations, in accordance with the decision making bodies rules, but must then immediately leave the meeting room. A Member with a prejudicial interest cannot remain in the public gallery to observe or vote on the matter.

### **Bias**

- 5.7 Where there is no prejudicial interest in a matter, a Member's duties as a director or trustee or a member of a management committee may still mean that he/she should not participate in a decision because of a legitimate fear of lack of impartiality, or bias, which could potentially invalidate the decision.
- 5.8 Bias will not be assumed by mere membership of an outside body. However, where the outside body has a line which is being advocated by the Member, it is likely that the Court would find bias on that issue and therefore the Member should not take part in a discussion or decision at a Council meeting on that issue. In such circumstances, it would be appropriate to seek advice from the Council's Monitoring Officer or Head of Law.

## **6. DISCLOSURE OF OUTSIDE INTERESTS FOR OFFICERS**

### **Declaration of Interests**

- 6.1 Section 117(1) of the Local Government Act 1972 requires that if it comes to the knowledge of any officer of a local authority that the authority has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the authority. A pecuniary interest should be interpreted as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

### **Conflicts of interest**

- 6.2 Where an officer has been appointed to an outside body by the Council and a conflict of interest arises, this should always be disclosed to the officer's immediate manager who should, in appropriate cases, seek advice from the Council's Corporate Law Team. Such conflicts may be dealt with in a number of different ways, depending on the nature and seriousness of the conflict. If the conflict is insubstantial then it should simply be recorded and no further action need be taken. Where there is a discrete conflict this may preclude the officer from undertaking a particular discrete task, such as dealing with the administration of a planning application, but would not be incompatible with the general performance of their job. In the case of a more serious incompatible conflict it may be determined that the nature of the conflict of interest is such that the officer must resign their position on the outside body and/or re-arrange their duties in a manner which avoids the conflict.

## **7. GIFTS, HOSPITALITY and BRIBERY**

- 7.1 Members and officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as Councillors or officers of the authority. In the case of officers accepting any such gift or consideration from anyone who has or is seeking a contract with the authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove the contrary. It is therefore very important to be completely open about any significant gift or hospitality to avoid the suspicion of misconduct.
- 7.2 Members are required by the Code of Conduct for Members to notify the Monitoring Officer, in writing, on receipt of any gift or hospitality with a value of more than £25, whatever the motivation for such a gift. Members should note that they only need to register gifts and hospitality worth more than £25 that are received in connection with their official duties as a Member. Gifts received by Members in a personal/private capacity do not need to be registered.



- 7.3 Officers are required to disclose offers and receipts of gifts and hospitality which must be recorded in the register of gifts and hospitality, in accordance with the Code of Conduct for Employees. Officers should read the detailed guidance in the Code of Conduct for Employees which explains what must be declared and where there is discretion to declare.
- 7.4 A particular issue arises for officers seconded to work on outside bodies, as section 117(2) of the Local Government Act 1972 provides that an officer shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. Where an officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the authority to which he/she is to be seconded, the seconding authority must agree that his/her proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which he/she is seconded.
- 7.5 Members and officers appointed to outside bodies need also to be aware of their potential liability under the Bribery Act 2010. This Act created a number of new criminal offences, of which the most relevant in the context of this guidance are:
- bribing another person
  - receiving a bribe
  - failure by a commercial organisation to prevent bribery

The Act defines bribery as offering, promising or giving someone a financial or other advantage either –  
to encourage that person to perform their functions or activities improperly or to reward that person for having already done so; or

in the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of the recipient's functions or activities

- 7.6 Personal liability. Where any of the offences referred to in paragraph 7.5 are committed by a company, a senior officer of that company is liable to be prosecuted for the same offence if it is proved to have been committed with their consent or connivance. No indemnity or insurance is available to Members or officers found guilty in this situation.
- 7.7 As regards the offence of a commercial organisation failing to prevent bribery, Members and officers should note the following (taken from Ministry of Justice guidance): so long as the organisation is incorporated (by whatever means), or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.

- 7.8 Members and officers should also refer to the council's counter-fraud strategy for further details of (i) the bribery risks facing the council, its Members and officers, and (ii) advice on the measures that Members and officers should take to mitigate the risks identified.

## **PART 8.5 – PROTOCOL FOR MEMBERS REGARDING PLANNING APPLICATIONS**

### **1. Lobbying and neutrality**

- (a) Members of the Planning Committee should not organise the support of, or opposition to, planning applications.
- (b) No Member should lobby Members of the Planning Committee.
- (c) Planning Committee Members should retain a neutral position on planning applications prior to determination at the Committee and, in order to retain the impression of being free from bias, should avoid making public statements as to their support of, or opposition to, any application.
- (d) Planning Committee Members should use a standard paragraph in letters to lobbyists etc explaining they will retain a neutral position on planning matters and applications until such time as the application is put to the Committee for determination. However, before doing so Members may wish to take advice from officers as to whether the application will be determined by the Committee or under delegated authority.

A suggested standard paragraph is as follows:

"As a Member of the Planning Committee I am unable to comment on planning application reference.....until such time as the application comes before the Committee for determination"

- (e) Ward Members not sitting on the Committee should be informed of applications in their ward.
- (f) Members not sitting on the Planning Committee may make public their personal view on any development issue and may take advice from the Head of Law before commenting on any particular planning application. Where views are expressed it should be made clear that the merits of the application will be dealt with by the Committee at the determination stage in accordance with statutory criteria.
- (g) No Member should appear to be delivering planning outcomes to lobbyists, agents, third parties, objectors, etc. prior to a planning application being determined.
- (h) Members who have been lobbied or taken part in any discussions on an application, and then substituted onto the Committee, should declare this at the Committee. Members who have expressed a strong view on a particular application should seek advice from the Head of Law prior to being substituted.

## Note

Planning Committee Members have to retain a "neutral" position on any application for the very fact that they are part of the decision making process and cannot be seen to side with either the applicant or objectors prior to the date of determination of the application when all relevant facts are known. As decision makers, they should not be seen to be prejudging the application, nor to be influenced by those with whom they have a special relationship as fellow Members, at any stage prior to determination. This would not therefore debar a local Member from speaking on an application at the determination stage but would prevent a Member from lobbying Members at any time leading up to determination.

The Planning Committee is constrained to take into account only relevant planning considerations, against the background of the Development Plan and other material planning considerations. Planning decisions should not be unduly influenced by party politics, or individual Members. Should Members be allowed to become involved in applications to the extent of organising support/objection the Council's credibility in the decision making process could be compromised.

For example, therefore, Members should not distribute or organise the distribution of leaflets urging the public to support or oppose particular planning applications. However, Members could set up meetings to gain the public's views on particular applications, but in so doing regard must be had to codes (c) and (f) above.

For further advice regard should be had to the Local Government Association's publication : "*Probity in Planning*" which contains detailed guidance on good planning practice for Councillors and officers dealing with planning matters

## 2. Declaration of Members' Interests

- (a) All Members should be conversant with the Code of Conduct for Members.
- (b) Non-voting Planning Committee Members should leave the committee room during consideration of any application in which they have an interest which would amount to a prejudicial interest had they been voting Members of the Committee.

[Note: Members should be aware that officers are bound by the Code of Conduct for Employees and should declare financial and non – financial interests.]

### **3. Procedures and Conduct of Meetings**

#### **(a) Chair's Briefings**

- (i) Chair's briefings should be held after the draft agenda has been set and officers' recommendations made.
- (ii) The prime purposes of Chair's briefings should be:-
  - to discuss the issues with the Chair, Deputy Chair and Opposition Spokesperson;
  - to ensure that the rationale for officers' recommendations is fully explained;
  - for the Chair to highlight possible problem items and potentially controversial applications;
  - to consider arrangements for site visits;

#### **(b) Officer - Member Briefings**

- (i) Member briefings should be held after the draft agenda has been set and officers' recommendations made.
- (ii) The purpose of Member Briefings is to ensure that the rationale for officers' recommendations is fully explained
- (iii) Officer-Member briefings are to be fact finding exercises only.

#### **(c) Committee Meetings**

- (i) An opportunity will be given for members of the public to address the Committee. Those wishing to make representations must follow the Protocol for Public Representations at the Planning Committee.
- (ii) A representative of the Head of Law should be present at all Committee meetings.
- (iii) Ward Members not sitting on the Committee, and any ward Member of an adjoining ward or other ward which will be affected by the application, will have the right to attend the Planning Committee and speak for a maximum of 3 minutes to any application within/affecting their ward.

#### **Note**

This includes the right of ward Members to speak on an application where they are Members of the Applicant Committee (see also note to Code 6(a)).

#### **4. Site Visits**

- (a) Site visits should follow established criteria. A copy of the criteria is attached as Appendix 1.
- (b) A Code of Conduct for site visits should be followed. A copy of the Code is attached as Appendix 2.
- (c) It is recommended that all Planning Committee Members should attend site visits.
- (d) Planning Committee Members with an interest in an application should not attend the site visit for that application.

#### **5. Decisions Contrary to Officer Recommendation**

- (a) Members must give tenable and substantiated reasons when refusing and approving planning applications.
- (b) Reasons for rejection and approval should be fully minuted.
- (c) A recorded and named vote should be taken where applications are rejected or approved against officer recommendations.
- (d) Officers must ensure that Members are fully aware of the reasons for their recommendation and the implications for the Committee of a decision against the recommendation – this would include the cost implications of any appeal.

#### **6. Planning Applications made by the Council**

- (a) There is no automatic prohibition on Members of the Planning Committee speaking and voting on planning applications made by Committees or Sub-Committees of which they are also Members. However, Members need to be mindful of the following:
  - there may be a potential public perception that, by being part of the application and determination process, Members may not retain a neutral and objective position;
  - Members must confine themselves to determining planning applications on the basis of material planning considerations only and not take into account non-planning considerations;
  - Members should not take part in the planning decision if their Membership of the Applicant Committee or Sub-Committee, or other circumstances, would lead to a charge of bias or predetermination.;

- Members should consider each situation on its own merits and, if the position is unclear, err on the side of caution and not take part in the determination of the application;
- If Members are unclear or need advice, they should consult the Head of Law or the Planning Lawyer.

#### **7. Relationship between Members and Planning Officers**

- (a) Planning officers who work closely with Members must ensure that their professional judgment is not compromised by the nature of their professional relationship with Members.
- (b) Members should recognise that Chartered Planners are governed by their code of professional conduct obliging RTPI members to make professional and independent recommendations.
- (c) Informal relationships between officers and Members should be avoided as this may create difficulties for chartered planners where there are genuine differences of approach to a planning matter.

#### **Note**

Members need also to be familiar with the Code of Conduct for Member/Officer Relations found elsewhere in this part of the Constitution.

## APPENDIX 1

### Criteria for Planning Committee Site Visits

#### 1 The Purpose of Site Visits

1. The purpose of a Site Visit is:-
  - to enable Members of the Committee to obtain a fuller appreciation of the likely impact of proposed development, which may not be apparent from the officers' report and presentation or form a public vantage point outside the site, so as to inform better decision making in respect of that application;
  - to enable members of the public to point out to Members of the Committee particular local conditions or site characteristics that have a bearing on the planning issues relating to a submitted application;
  - to enable Members of the Committee to assess the impact of schemes that they have previously approved so as to inform decision making in the future (site visits to implemented schemes).

Both applicant and objector shall be treated equally during the site visit, and where the applicant has direct access to Committee Members, he/she shall only respond to factual questions put by members of the Committee.

- 1.2 The purpose of a Site Visit is not:-
  - to allow ward Councillors, applicants, objectors or other members of the public to lobby Members of the Committee, nor
  - to duplicate or check up on the site assessment made by the planning case officer.

#### 2. Protocol for calling for Site Visits

- 2.1 Any Member of the Committee or Councillor is entitled to make a request for a site visit explaining how they consider their request meets the criteria set out above. It will be entirely at the discretion of the Committee to decide whether it wishes to carry out a site visit in that particular instance.
- 2.2 If a Member of the Committee calls for a site visit this will normally be agreed provided that Members are satisfied that the proposal meets the criteria although the final decision on all such requests will rest with the Committee itself.
- 2.3 Members will be encouraged to identify potential cases for Committee site visits at the earliest possible occasion so as to avoid unnecessary deferments.



## **APPENDIX 2**

### **Site Visits by Planning Committee**

#### **Code of Conduct**

1. A site visit is for the purpose of viewing the site and ascertaining facts. They will take place only if authorised by the Committee where the Committee considers it is unable to determine an application on the basis of the officer's report to the Committee alone.
2. Authorised attendance at a site visit shall be limited to elected and co-opted Members of the Planning Committee, a representative of the Strategic Director of Place and the applicant or his or her representative. Councillors representing the ward in which the application is submitted or adjacent wards affected by the application will also be invited to attend.
3. There shall be no discussion of the merits of any application during the site visit. Such discussions will only take place at a meeting of the Committee.
4. During the site visit Members should endeavour to remain in a group and must not enter into individual discussions with the applicant, the applicant's agent or any objector.
4. Applicants or their representatives shall not be permitted to make representations to Members of the Committee during a site visit. They may, however, give any purely factual information which is required by Members and which cannot be ascertained by viewing alone.
5. A request for a site visit is normally made by a Member at Planning Committee when the recommendation is considered. Officers may suggest or formally recommend that a site visit be made. If the Committee agrees that a site visit should be made, the application is automatically deferred to the next meeting.
6. Site visits are normally arranged for the afternoon of the day immediately prior to the following Planning Committee. It is the responsibility of the case officer to:
  - (a) Notify the applicant/owner of the site that a visit is to take place and explain the procedure;
  - (b) Liaise with the Clerk to the Committee regarding the time and place of the visit so that a letter can be sent with the next agenda notifying Members of the visit.
  - (c) Ensure that the report/schedule recommendation is included on the next agenda.

## **PART 8.6 – PROTOCOL FOR PUBLIC REPRESENTATIONS AT PLANNING COMMITTEE**

The following procedure shall be followed at the Planning Committee meetings for the purpose of enabling members of the public to make representations. This protocol supplements the Council Procedure Rules and the two should be read together.

1. A planning officer will introduce the planning application and display any plans as well as bringing to Members' attention any new matters that have arisen since the agenda was prepared. Members may ask questions of the planning officer.
2. Objectors (or their representative) have an opportunity to address Members. Where there is more than one objector, the clerk to the Committee will require the objectors to nominate a spokesperson. Exceptionally, and at the Chair's discretion, more than one objector may be allowed to speak, but only where new material issues are to be raised. Members may ask questions of the objectors only for the purpose of clarifying matters of fact already raised during the objector's presentation.
3. A meeting room or space will be made available for objectors to meet each other for half an hour before the meeting.
4. For the purposes of this protocol:-
  - the term "objector" shall mean a person who lives in the immediate vicinity of the application site or who otherwise may reasonably be considered to be potentially directly affected by the proposed development
  - persons or organisations represented by co-opted members of the Committee or organisations affiliated to such organisations shall not be treated as objectors and afforded public speaking rights
5. The applicant (or their representative) has an opportunity to make representations in support of the application, but only if the recommendation is to refuse or there are ward Members or objectors speaking against the application. Applicants will be notified of any notice of intention to speak. Members may ask questions of the applicant only for the purpose of clarifying matters of fact already raised during the applicant's presentation.
6. Ward Members may address the meeting after the objectors and the applicant and will be allowed a maximum time of 3 minutes speaking time for each application. Where more than one Ward Member wishes to speak, the time will be divided equally among the Ward Members (unless they come to some other arrangement between themselves.)

7. Members may receive legal and other professional advice as necessary during the proceedings.
8. In the interests of efficient despatch of business, the following rules regarding timing will apply:
  - A total time of 3 minutes shall be allowed for all objectors. Where the Chair permits more than one objector to speak, the time will be divided equally among the objectors (unless they come to some other arrangement between themselves.)
  - A total time of 3 minutes shall be allowed for the applicant.
  - The total time allowed for public speaking shall be limited to a maximum of 6 minutes per application. In exceptional cases, these timings, and the time allowed for ward Member representations, may be extended at the Chair's discretion. An exception may involve an abnormal weight of objections or support or where the application is particularly complex.
9. A person wishing to speak at a meeting of the Committee shall give written notice of his/her intention to do so to Members' Services Team 4 clear days before the meeting (Normally, the Committee meets on Wednesdays which means the notice has to be received by the preceding Friday). The applicant and other persons wanting to make representations will be notified of the arrangements for public speaking by being sent a copy of this protocol together with contact details. Applicants may be given the right to speak notwithstanding that they have failed to give the required notice.
10. The Committee or the Chair may waive any of the requirements of this protocol if satisfied on legal and professional advice that it is appropriate to do so in the circumstances.

## **PART 8.7 - CODE OF CONDUCT FOR MEMBER/OFFICER RELATIONS**

### **1. Introduction**

- (a) An effective and productive working relationship between Members and officers is critical to the successful operation of the Council's business. This code deals with the Member/officer interface in general terms and then refers to the working relationship between Members and Chief Officers, senior officers and other officers who formally advise the Council.
- (b) Excellent working relationships between Members and officers are required both to deliver high quality services to local people and to maintain public confidence in the machinery of local government in Brighton & Hove.

### **2. Mutual Respect and Courtesy**

- (a) For the effective conduct of the Council's business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and officers. The basic tenets of common courtesy apply in both formal and informal settings. This plays an important part in safeguarding the Council's reputation and the regard in which it is held by members of the public.
- (b) It is important that both Members and officers remember their respective obligations to enhance the Council's reputation and do what they can to avoid criticism of Members or officers in public. The quality of the interface between the two is vital in ensuring that the highest ethical standards permeate the Council in both its private and public dealings.
- (c) Members should be aware that officers are constrained in the response they may make to public comment from Members and should not abuse officers in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces Members' proper right and duty to criticise the reports, actions and work of a department or section of the Council where they believe such criticism is merited. If Members believe they have reason to criticise the work of an individual junior officer, the proper approach should be through the senior manager of the section or Chief Officer of the relevant department. Equally where officers feel they have good cause to criticise a Member, an approach by the relevant Chief Officer to that Member's party whip, group leader or convenor is a sensible first step.

### **3. Roles and Responsibilities**

- (a) All Members have responsibilities towards the Council, effectively as trustees. No decisions on behalf of the Council can be taken by individual Members in law, but because the Council is organised into

political groups certain Members will exert more influence and direction than others, namely the leadership of the largest group(s) and opposition groups. Committee/Sub-Committee Chairs will also exert influence and guidance within the area covered by their Committees/Sub-Committees. The role of Committee/Sub-Committee Chairs is recognised for procedural purposes, for example, conducting meetings or exercising a casting vote. Whilst in practice, liaising with senior officers on significant matters, they cannot reach individual decisions on behalf of the Council.

- (b) Members are responsible to the electorate and may serve until their term of office expires or until it is ended before that, for whatsoever reason. Officers are employed by, and are responsible to, the Council. Their job is to give advice to Members and the Council and to carry out the Council's work under the direction and control of the Council, its Committees and Sub-Committees and the management of the Chief Executive and the relevant Chief Officer.
- (c) Officers are employed to advise the Council and to implement its decisions. Officer advice must be full and impartial and should include all relevant options. It must not seek to second-guess the decisions of Members, for example by excluding presumed unpalatable options, and must be clear and professional at all times. Members should respect officers' political neutrality at all times. But Members are entitled to reject officer advice and to give effect to their lawful policies even if these are clearly at variance with the views of officers. It is by this means that the largest group(s) are able to implement the policies for which they regard themselves as responsible to the electorate and the opposition groups are able to challenge them and put forward their own policies.

#### **4. Political Activity**

- (a) Senior officers, except those specially exempted, cannot be local authority Members or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party". Such officers are nevertheless able to engage in such activity to "such extent as is necessary for the proper performance of their duties". (Sections 1-2 of the Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990.
- (b) Officers are employed by the Council not by Committees/Sub-Committees or individual Members and are subject to the application of the Council's employment policies and procedures including the Council's Code of Conduct for Officers.
- (c) National conditions of service provide that officers cannot be required to advise any political group of the Council, either as to the work of the group or as to the work of the Council, neither can they be required to

attend any meetings of any political group. Nonetheless it is common practice for party groups to give preliminary consideration to matters of Council business and officers may properly be called upon to support and contribute to such deliberations.

- (d) Normally, only the Chief Officer will be expected to attend meetings, write reports or carry out other work relating to Council business (including drafting Notices of Motion) for a party political group. Subject to the Chief Officer's discretion, other senior officers may be invited to attend meetings, provide information, write reports and draft Notices of Motion, or carry out other work relating to Council business for party political groups. However, neither the Chief Officer nor any other officer can be instructed to do so nor can they be instructed to carry out any party political work. This provision covers meetings of or reports to a party political group or meetings designated for one party only. It is, of course, open to any Committee or any Sub-Committee to require reports from Chief Officers on matters within their terms of reference.
- (e) Officers must respect the confidentiality of any party group discussions at which they are present and should not relay the contents of any such discussions to another party group.
- (f) The principle in (d) above does not deny the necessity for regular contact on matters affecting the Council between Chief Officers, other senior officers and the leadership of political groups, and on matters affecting committee functions between Chief Officers, other senior officers and Committee/Sub-Committee Chairs and party spokespersons.

## **5. Contact between Members and Officers**

- (a) Regular contact between Members and senior officers is necessary to ensure the efficient working of the Council. In this context, it is the responsibility of Chief Officers to identify within each department the senior officers who should have regular contact with Members and this will depend upon the nature of the service they provide and the nature of the Member contact envisaged. However, Members should always bring major concerns about issues affecting a department directly to the attention of the Chief Officer concerned.
- (b) Serious problems can arise if Members bypass appropriate lines of communication to Chief Officers and their senior officers and, for example, deal with more junior members of staff to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving Members of the formal, informed and accountable advice they have a right to expect from Chief Officers. It may also serve to undermine the formal accountability of staff to their line manager.

- (c) However, there are circumstances when Members may need direct contact with relatively junior staff, for example, with junior officers in Housing District Offices when dealing with constituency casework presented by tenants. Approaches by Members to junior officers are proper when casework is detailed and ongoing or matters are routine but wherever appropriate Members should keep Chief Officers informed by copying them correspondence, e-mails etc., and routing general enquiries through them.

## **6. Information for Members**

- (a) It is important that officers keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the wards which Members represent. Ward Members should be informed about proposals which affect their area whether this concerns the declaration of a surplus property, a new traffic management scheme or a local planning application. Ward Members should also be invited to attend the opening of new Council buildings or road schemes or other similar ceremonies within their wards. It should also be borne in mind that Members who are not Members of a particular Committee/Sub-Committee may be able to attend and speak at meetings of Committees/Sub-Committees with the agreement of the Chair or person presiding at the meeting.
- (b) The disclosure of information by Members which they have gained as Members when the information is confidential, is restricted. It should not, therefore, be made available by the Member concerned to the press or public nor should it be passed onto another Member who cannot demonstrate a similar “need to know”.

## **7. Access to Information**

- (a) Members have wide-ranging legal rights of access to documents in the possession or under the control of the Council and officers should implement requests for information from Members who need that information for the fulfilment of their duties as a Member.
- (b) Normally, officers will accept that Members do not ask for information without good reason and will not question the Member’s “need to know”. But in the words of relevant legal arguments, a Member has no right to a “roving commission” and “mere curiosity or desire” is not sufficient. Nor can the Member exercise the right for some improper motive, e.g. to assist someone in litigation with the Council, its staff, suppliers or service users.
- (c) In rare cases therefore a Chief Officer may apply the “need to know” test. The Member will need to show why the information is necessary to fulfil Council duties. Further guidance on the “need to know” issues is set out in Appendix 1 to this code. Where an officer considers that a Member has not established a “need to know” in support of a request

for access to information and refuses to provide the information requested, the officer shall state reasons for doing so. Where the Member is dissatisfied with the outcome the matter shall be referred to the Monitoring Officer for a decision.

- (d) A Member asking for complex or bulky information should be flexible in his or her demands if compiling and reproducing the documentation results in significant cost to a department. The Member will normally be able to view relevant material and to copy individual documents and retain them but may not make use of such information for an improper purpose or one unrelated to the Member's duties.
- (e) Members are reminded of their duty not to disclose confidential information which they have gained access to as Members (see also 6(b) of this Code). To do so is not only a breach of this code but is also very likely to be a breach of the Code of Conduct for Members. If any Member believes that he or she may have justification for disclosing confidential information, he or she must first seek advice from an appropriate officer such as the Monitoring Officer, Chief Finance Officer or Chief Executive.

#### **8. Preparation of Officer Reports for Committees/Sub-Committees**

- (a) Officer reports to Committees and Sub-Committees should be written by the Chief Officer or other officer authorised by him or her. All sensitive officer reports shall be discussed with the relevant Committee/Sub-Committee Chair at one of the regular meetings held with the Chief Officer.
- (b) However, the draft officer report belongs to the officer concerned and even if the Chair or another Committee/Sub-Committee Member in exceptional circumstances is unhappy with its contents, it should not be amended by them save with the express approval of the Chief Officer. It is for the Chief Officer to determine when a draft officer report should be amended in the light of Members' views, taking advice from the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate.

#### **9. Correspondence**

- (a) Frequently Members and officers correspond and, where it is appropriate to regard the correspondence as non-confidential, it may be copied by either the sender or the recipient to others, subject to the provisions of paragraphs 9(b) to (d) below and to the requirement that correspondence should be courteous and wide circulation of it should not be employed as a means of administering a public rebuke to a Council officer.
- (b) Officers should not copy correspondence with a Member of one party to a Member of another party without consent. This does not prevent



officers or Members copying correspondence to each other about casework across ward or interest group boundaries. Nor does it preclude a Chief Officer from advising a Committee/Sub-Committee Chair in general terms of an issue raised with the Chief Officer in correspondence, or otherwise, with a Member.

- (c) Members and officers must treat as confidential any personal information protected from disclosure by the Data Protection Act unless the disclosure is permitted under the Act or by other legislation.
- (d) Members should bear in mind that if they disclose any information which should have been regarded as confidential, this is very likely to be a breach of the Code of Conduct for Members, as mentioned at paragraph 7(e) above. If in doubt as to the status of the correspondence, the Member should check with the officer concerned before taking any steps to distribute it more widely.

#### **10. Undue Pressure**

- (a) Members need to be aware that it is easy for officers, particularly junior members of staff, to be overawed and feel at a disadvantage in their dealings with Members. Such feelings can be intensified where Members hold official and/or political office. Therefore, the usual point of contact for Members should be the relevant Chief Officer or Deputy Chief Officer.
- (b) A Member should not request an officer to do anything that she or he is not empowered to do, nor to cease any action which the officer is properly taking or proposes to take, nor to undertake work outside normal duties or outside normal hours, nor to provide information to which the Member is not entitled. Advice on the appropriateness of such requests is available from either the Chief Officer or the Monitoring Officer.
- (c) Similarly, an officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor to raise personal matters to do with their job, nor make claims or allegations about other officers. The Council has formal procedures for consultation, grievance and discipline.

#### **11. Familiarity**

- (a) Close personal familiarity between individual Members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, e.g. personal details. Such familiarity can also cause embarrassment to other Members and/or other officers and even give rise to suspicions of favouritism.

- (b) For the above reasons, it is evident that close personal familiarity should be avoided, and in any event must be declared both by the Member and the officer. Such declarations should be made by the officer to the officer's Chief Officer and by Members to the Chief Executive.

## **12. Officers and Overview and Scrutiny**

- (a) Where an Overview and Scrutiny Committee exercises its powers to require officers to attend to answer questions or discuss issues it should also consider the seniority of officers it would be appropriate to require to appear before them, in order to ensure that more junior officers are not put under undue pressure. Guidelines on this matter are included in the Overview and Scrutiny Procedure Rules at Part 5 of the Constitution.
- (b) Overview and Scrutiny Committees should always bear in mind that when officers appear to answer questions their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain what the policies are, the justification and objectives of those policies as the decision makers see them, the extent to which those objectives may have been met, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation. They may be asked to explain and justify advice they have given to Members prior to decisions being taken and/or decisions they themselves have taken under delegated authority.
- (c) As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Council's policies and decision makers' actions should always be consistent with the requirement for officers to be politically impartial.

## **13. Redress and Breach of this Code**

- (a) If a Member has a complaint about a junior or senior officer, it should be raised with the relevant Chief Officer. If the complaint concerns a Chief Officer it should be raised with the Chief Executive as Head of Paid Service. A complaint about the Chief Executive should be raised with the Leader, who will consider whether the issue can be dealt with as part of routine liaison, supervision and appraisal, or should be referred for formal action in accordance with Council procedures and the statutory provisions governing disciplinary action against Local Authority Chief Executives. This does not however preclude a Member from making public, at a Council meeting or in another appropriate way, a concern about the manner in which a Council department has acted, or dealt with a constituent, or a service has performed generally. Nor does it prevent Members at meetings of Committees or Sub-Committees being critical of officer advice or action or of the quality of

reports before them. But the manner of such criticism should have regard to the guidance in respect of mutual respect and courtesy at paragraph 2 of this Code.

- (b) If a Member considers that he or she has not been treated with proper respect or courtesy by an officer or that an officer is otherwise in breach of this Code, the Member may raise it with the officer's line manager or Chief Officer without delay if the Member fails to resolve it through direct discussions with the officer. A Member may raise the issue with the Chief Executive, after discussion with the relevant Chief Officer. If the issue still remains unresolved, appropriate disciplinary action may be taken against the officer.
- (c) If an officer has similar concerns about a Member, the officer should raise the matter with his or her line manager or Chief Officer as appropriate without delay, especially if the officer does not feel able to discuss it with the Member concerned. In such circumstances the Chief Officer will take such action as is appropriate either by approaching the individual Member and/or party group leader. The Chief Officer will inform the Chief Executive and the Monitoring Officer if the party group leader or a Committee/Sub-committee Chair becomes involved, or in any other case where that is appropriate.
- (d) If an officer is concerned that another officer is in breach of this Code, or if a Member is concerned that another Member is in breach of this Code, he or she should raise the issue directly with either their line manager or Chief Officer or with their party group leader. Similar redress may be sought as in the previous paragraph.

#### **14. Conclusion**

- (a) Mutual understanding, openness and basic respect are the greatest safeguards of the integrity and reputation of the Council, its Members and officers.
- (b) If Members or officers have any concerns about the content of this Code, or wish any interpretation or advice upon its contents, they should contact in the first instance the Monitoring Officer or the Chief Executive.

## **APPENDIX I - Access to Information – the “need to know”**

1. The courts have given guidance on the circumstances in which a Member seeking information from an officer can be presumed to have a “need to know”.
2. Members are presumed to have a good reason for access to all written material relating to a function controlled by a Committee on which they serve. Also, a Member of a Committee would have a good reason for access to papers relating to the business of a Sub-Committee of that Committee.
3. A Member with a legitimate concern in a matter in which she or he is representing a constituent or other person or organisation may be able to demonstrate a “need to know” in relation to papers relevant to that matter, even if the Member concerned is not on the relevant Committee/Sub-Committee.
4. However, even where a Member is a Member of a Committee/Sub-Committee and wishes to see papers relating to the work of that Committee or a Sub-Committee of it, there will not be an automatic right of access to papers if the Member’s interest springs from something other than the wish to pursue rights as a Member of that Committee/Sub-Committee.
5. Party leaders may be able to demonstrate a "need to know" in respect of written material relating to all Committees/Sub-Committees.
6. Notwithstanding that the information requested may come within the above categories, an officer may refuse a request to provide the information if she or he has cause to think that the information may have been requested for an improper purpose or is otherwise unreasonable or is of a personally sensitive nature.
7. In this context, the courts have been critical of a request by a Member for details of many contracts, and have ruled that a request for details of a Chief Officer’s attendance at the office amounted to harassment.
8. An officer in judging whether a Member requesting information has a right to it is entitled to know the reasons for wanting it, and in the absence of cogent reasons is entitled to refuse. Where an officer considers that a Member has not established a "need to know" in support of a request for access to information and refuses to provide the information requested, the officer shall state reasons for doing so.
9. Members are entitled to have enough information to be able to perform their functions properly and the Courts will protect this position. Members should however bear in mind that unreasonable requests or pressure for information may amount to a breach of the Code of Conduct for Members.

## **PART 8.8 - CODE OF CONDUCT FOR EMPLOYEES (OFFICERS)**

**Please take time to read this Code and make sure that you understand it.**

**If you are unclear or want to know something specific, talk to your manager or your human resources division.**

### **Introduction**

You are employed by Brighton & Hove City Council and that means that you are a Local Government Officer. You and the services you provide are paid for by public money and therefore you are accountable to the public for your behaviour, actions and decisions. You must not only behave properly, you should also be seen to behave in a way that is beyond question.

The Council recognises that working in a public service is not easy. Every area is changing and it may be unclear to you what is acceptable and what is not. This Code is intended to explain your responsibilities and your rights as an officer.

This Code deals only with the standard of behaviour expected of you as an officer. There are other Codes which are important for you to understand and which you should read alongside this one:

#### **The Code of Conduct for Member–Officer Relations**

This deals with the relationship between you and Members of the Council (Councillors)

#### **The Code of Conduct for Members**

A local code setting out standards of conduct and behaviour for Members of the Council

#### **The Whistleblowing Policy**

This sets out a procedure for you to report actions, wrongdoings or serious failures

#### **The Complaints Procedure**

A procedure for members of the public to complain about services or actions of the Council

#### **The Anti-fraud and Corruption Strategy**

The Council's commitment to fighting fraud and corruption whether attempted from outside or inside the Council.

## Scope

This Code of Conduct applies to you if you are an employee of Brighton & Hove City Council, whether employed on a permanent, temporary or casual basis, or if you are an officer holder. All officers must follow this Code. Deliberate breaches of the Code will be treated as a disciplinary offence. In some cases a breach of the Code may result in criminal prosecution.

This code contains the following

Section 1	Basic principles/definitions
Section 2	Political neutrality/activity/restricted posts
Section 3	Council policies and legal requirements
Section 4	Outside commitments/declaration of interests
Section 5	Membership of closed organisations
Section 6	Tendering/dealing with contractors
Section 7	Using your position in the council
Section 8	Corruption, fraud and dishonesty
Section 9	Use of council facilities/resources
Section 10	Inventions/patents/copyright etc/conferences
Section 11	Appointing staff/discipline & grievance
Section 12	Gifts/hospitality
Section 13	Sponsorship
Section 14	Information
Section 15	Financial resources/regulations
Section 16	Role of the Monitoring Officer
Section 17	Raising concerns
Section 18	Responding to complaints

## Basic principles & definitions

The basic principles on which this Code is built are that:

- you, your family or your friends must not gain financial or other benefits from the decisions or actions you take whilst working for the Council
- you must make decisions, choose purchases and award contracts on merit and in the best interests of the Council
- you will not accept money or other benefits from individuals or organisations that may, or may be seen to, influence your decisions
- you should always declare any interests you have outside work that relate to your work for the Council. You must always think how your actions would look to the residents of Brighton & Hove. Would they be seen to be in the best interests of the public? Would you be able to explain your role?

- 1.2 If you are at all uncertain, you should be guided by the key principle that even if your actions, decisions or behaviour are proper, you are still sure that you are above suspicion and any appearance of improper conduct.
- 1.3 If you are unsure what is expected, you can raise the matter with your manager, director, the Chief Executive, Head of Human Resources, the Council's Monitoring Officer or the Head of Audit & Business Risk. (A list of contact numbers is given at the back of this Code.)
- 1.4 **Definitions**
- 1.5 Throughout this Code there are references to partners, close friends, relatives, close personal relationships.
- 1.6 All of these are in the context of you having a loyalty to another person that is in conflict with the job or action in which you are involved for the Council.
- 1.7 There is no formal definition of 'close personal friend' or whether partner includes ex-partners with whom you are still friends.
- 1.8 It is your responsibility to act openly, honestly and without bias. You must assess if a relationship may cause you to act or be seen to act inappropriately.
- 1.9 This Code is not an exclusive or definitive list.

#### **Political neutrality**

- 2.1 As an officer you work for the Council as a whole and not just the majority (or leading) group. Although most staff will have very little direct contact with Councillors, some staff will be asked to give advice to individuals or to Committees. This must always be done in a politically neutral way and you must be prepared to explain your advice to all political groups. You should also bear in mind that you may be called to account for your advice, for example to an overview and scrutiny committee.
- 2.2 Once a policy has been approved through the Committee or Full Council stages as appropriate, it is a lawful policy of the whole Council and must be adopted by you, regardless of your beliefs. You must not allow your personal or political opinions to interfere with your work. If you believe that a policy is unlawful, you should contact your Director or the Monitoring Officer.
- 2.3 If you are asked by a Councillor to provide assistance on a matter that you feel is clearly political, or which does not have a clear link with the work of the Council, you should seek the advice of your Director or the Monitoring Officer.

- 2.4 If you are asked to attend any meetings of any political group of the Council, you should consult your Director before accepting the invitation.
- 2.5 Political assistants appointed on fixed-term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the political neutrality standards set out in paragraphs 2.1 to 2.4 above, although all other parts of this Code still apply to them.

## **2.6 Political activity**

You are not eligible to stand for office as a Councillor of Brighton & Hove City Council, but you may stand for office of another Council providing you are not in a politically restricted post (see paragraph below).

## **2.7 Politically restricted posts**

Some officers, normally those in more senior positions, are in posts where political activity is restricted through the Local Government and Housing Act 1989. This Act prevents them from taking part in certain political activities outside their work. If this applies, you should have been informed in writing, although it may be included in your statement of terms and conditions of employment. You should, if this is the case, have been informed of the rules for claiming exemption. If you are not sure about your position, you should contact your manager or Human Resources.

The political activities which are restricted for these officers include:

- standing as a Member of Parliament, Member of the European Parliament or a Councillor in any local authority (other than a Parish Council)
  - holding office in a political party at any level, (except in limited roles concerned only with the internal membership of the party)
  - canvassing at elections
  - speaking in public or publishing any written or artistic work which appears to be intended to influence public support for a political party.
- 2.8 You need to be aware of your position in terms of political activity. If you are not sure whether an activity is subject to 'political activity restrictions', you should seek advice from your Director, Head of Human Resources, who will consult the Monitoring Officer if necessary.
- 2.9 Violation of the statutory rules is a breach of contract and liable for investigation under the Council's Disciplinary Procedure.



### **3. Council policies and legal requirements**

- 3.1 As a Council officer, you must know the legal or statutory requirements of your job, and work within this framework at all times.
- 3.2 All members of the local community, service users and officers have the right to be treated fairly and impartially. As a Council officer you must comply with all Council policies relating to equalities issues and the requirements of the law.

### **4. Outside commitments/ Working Time Directive and declaration of interests**

- 4.1 Your first work commitment is to the Council. If your job is graded at Scale SO1 (or its equivalent) or above, you should not engage in any other business or take up an additional appointment without written permission from your manager. If you are allowed to undertake work outside the Council, you must not use the Council's facilities for that work.
- 4.2 The Council is required to take all reasonable steps to ensure that workers do not exceed the maximum hours per week. The statutory maximum hours per week [as laid down by the Working Time Directive] is an average 48 hours over a 17 week period, extended in certain circumstances to a 26 or 52 week period. Whatever your grade or position the Council has a responsibility to ensure that you do not exceed the statutory maximum hours per week. If you have, at the time of appointment, or subsequently obtain, other employment you should declare this to your immediate manager. Normally, the Council will not seek to prevent you from working more than the statutory maximum but it will want you to confirm, in writing, that this your choice.
- 4.3 In addition to the statutory maximum, if you are above school leaving age but under 18 years and working a total of 4.5 hours per day or more you are required to have a 30 minute break during that time. This applies whether you work only for the Council or for several different employers. If you are a young person with more than one job which adds up to 4.5 hours per day or more you should also inform your manager.
- 4.4 If you are 18 years of age or over, you are entitled to have a 20 minute break for every working shift lasting 6 hours or more per day.

#### 4.5 Declaration of personal / business interests: conflict of interests

You must declare to your manager any financial and non-financial interests that you consider could bring you into conflict with the Council's interests. Conflict may occur where the Council has entered into (or is going to enter into) a contract in which you, your partner or a relative has a financial interest. You may have a financial interest if, for example, you could:

- receive money or goods
- have value added to a property
- benefit from an increase in share value.

If you have shares in a privatised utility, such as British Gas, with which the Council will have dealings, you will not normally need to declare this involvement. It is ultimately a question of degree. You would be expected to declare any large shareholdings you may have in a company coming into contact with the Council.

- 4.6 A conflict of interest may also arise when you have a direct interest in the outcome of a Council decision. If this is the case, in order to protect yourself from any appearance of improper conduct you should inform your manager immediately that you are aware of the situation.
- 4.7 Conflicts of interest may occur in a number of circumstances. You should, for example, declare your involvement with an organisation which is grant aided by the Council if you have any part in the grant process.
- 4.8 You should also declare any involvement with an organisation or pressure group which may seek to influence the Council's policies.
- 4.9 If you are not sure whether you should declare such an interest and wish to discuss the matter in confidence, the Monitoring Officer or Head of Human Resources can offer advice.
- 4.10 Although you can be offered advice about declaring interests, it is ultimately your responsibility: if you are not sure, then it is always best to declare an interest. Declared interests are kept on registers of interests. . It is important to remember that declaring an interest does not imply that you may act improperly, but that it could protect you from claims or the potential appearance of impropriety.

Note: The form on which declarations of interest should be made can be found on the Council's intranet.

## **5. Membership of non-open / closed organisations**

- 5.1 You must declare in the registers of interests membership of any organisation not open to the public without formal membership and commitment of allegiance, and that has secrecy about rules or membership or conduct. This includes membership of organisations such as the freemasons. Declaration of such membership is required in order to avoid allegations of conflict between an officer's job and their personal interests and allegiances.

## **6. Tendering / dealing with contractors**

- 6.1 Orders and contracts must be awarded on merit by fair competition against other tenders and in accordance with the Council's Standing Orders. You must not show favouritism to any contractor. You must also make sure that no special favour is shown to current or recent former employers, officers or their partners, close relatives or associates in awarding contracts.
- 6.2 If you are involved in the tendering process and deal with contractors, you must be clear about the need for separation of client and contractor roles. You must also make sure that, if you are privy to confidential information on tenders or costs for either internal or external contractors, you do not disclose such information to any unauthorised party or organisation.
- 6.3 If, as part of your job, you are involved with or supervise contractors, and you have any kind of personal or other relationship with a contractor or potential contractor, the law states that you must disclose this relationship. Any such relationships should be disclosed to your manager and entered in the register of interests.

## **7. Using your position in the Council**

- 7.1 You are entitled to expect fair and reasonable treatment by your colleagues, managers and Councillors. If you feel that you have been unfairly treated, discriminated against or harassed, you are entitled to make use of the Council's Grievance Procedure.
- 7.2 In the same way, you are required to treat your colleagues and staff fairly. Not only is it a criminal offence to harass another person on any grounds, it is also a disciplinary offence in the Council.
- 7.3 You should not cause any person harassment, alarm or distress by using threatening, abusive or insulting language or disorderly behaviour, or by displaying any writing or signs, drawings, posters etc. which are threatening, abusive or insulting.

- 7.4 You are also entitled to be treated with respect by clients, service users and members of the public. If you feel that their behaviour is unreasonable in the circumstances, you are entitled to terminate the contact, providing that you do so without further antagonising the situation, and that you give notice of your intention. You must always report such actions to your manager and make a record of the incident.
- 7.5 It is your responsibility to act reasonably and fairly.

## **8. Corruption**

- 8.1 It is important that you are aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing (or not doing) anything or showing favour or disfavour to any person in the course of your work with the Council.
- 8.2 Under the Bribery Act 2010 it is an offence to request, agree to receive or accept a financial or other advantage intending that a relevant function or activity should be performed improperly as a result.

## **9. Use of Council facilities**

- 9.1 You should only use Council facilities [such as accommodation, transport, stationery, postal service, computers etc.] provided by the Council for your use in your duties as an officer to carry out those duties and for no other purpose. In exceptional circumstances your manager may give you permission to use Council facilities but you should always obtain this authority prior to use.
- 9.2 Telephones, both static and mobile, can be used for short urgent calls, for example in an emergency or to book a doctor's appointment. Telephones should not be used to give or receive personal calls which are not urgent.
- 9.3 The cost of any personal call made on a Council mobile phone must be repaid, regardless of whether it is within the agreed 'freetime'. (To avoid mobile phones becoming a personal taxable benefit, you should repay the cost plus 5%.)
- 9.4 **Use of computers**

There is a separate policy on the use of computers, email and internet facilities and you should refer to this policy for the rules governing acceptable use.

## **10. Inventions / patents / copyright / publication of work / conferences**

- 10.1 If you have invented or written something at work then as a general rule it belongs to your employer if:
- it has been written/made in the course of your normal duties
  - it has been made/written in the course of your duties and might reasonably be expected as part of your duties.
- 10.2 You must also make sure that you do not breach the copyright held by others so that if you wish to copy the work of others you should seek their permission and acknowledge the source.

### **10.3 Conferences**

You may be invited to address conferences or make presentations about your area of work. If you are asked to address a conference or make a presentation you must consult your manager before you accept the request, as there may be some occasions when the Council would not wish to be officially associated with the organising body. You must not personally accept fees for such work, but you may accept expenses and/or the ability to attend the full conference. There may be exceptions whereby your own time and resources are being used and you can be paid for the work. You should nonetheless seek your Director's advice before accepting a fee, and should refer to the "Outside commitments/Working Time Directive and declaration of interests" section of this Code (section 4).

## **11. Appointing staff / discipline and grievance**

- 11.1 If you are involved in making appointments you must make sure these are made on merit against an agreed person specification and in accordance with the Council's recruitment policy and procedures.
- 11.2 It is unlawful for you to make an appointment based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you must not be involved in an appointment if you are related to an applicant, or have a personal relationship with them outside work.
- 11.3 It is also important that there is no suggestion of collusion among panel members. You should not be a member of a panel which includes your partner or someone with whom you have a close personal relationship.
- 11.4 You must not canvass on behalf of an applicant.
- 11.5 Similarly, you must not be involved in decisions relating to discipline, capability, grievance procedures, pay adjustments or promotion for any other officer who is a relative, partner or close friend.

## 12. Gifts

12.1 You must, at all times, avoid any occasion for suspicion and any appearance of improper conduct. Any gift, reward or benefit offered to you as a Council officer should generally be refused. You should report any offers of expensive gifts to your Head of Service, Director or the Monitoring Officer. Gifts offered to you (whether or not you accept them) are to be recorded by you in the register as follows:-

(a) If the gift is of a nominal value of £25 or less, you have a discretion as to whether or not to record the gift. Thus, for example, you would not normally record being given gifts mentioned in category (a) in paragraph 12.2 below, but it would probably be appropriate to record gifts in categories (b) and (c) even if worth less than £25.

(b) If the gift is of a nominal value of more than £25 you must record it.

Note 1: If your department or team has special rules about accepting / refusing gifts, you must also comply with those rules.

Note 2: The form on which gifts and hospitality should be registered can be found on the Council's intranet.

12.2 Gifts may only be accepted if they are:

(a) small and of modest value or of a promotional or advertising nature, e.g. calendars, diaries, pens and other similar articles (see also below)

(b) small gifts offered during official authorised hospitality, e.g. gifts on the conclusion of any courtesy visit of a type normally given by that organisation

(c) small gifts given by service users or clients. Where appropriate, such gifts should be shared between teams.

12.3 Gifts that are not acceptable must be declined or returned.

12.4 It is very important that any gifts or other promotional material (pens, calendars, diaries) which carry names or logos should not be used or displayed in public areas. This is to avoid unintentional promotion or endorsement of such products or services.

## 12.5 Hospitality

You may receive hospitality from other Councils, organisations or individuals as part of your work. You should avoid being personally entertained by those who want, or are likely to want, something from you or the Council. When hospitality is offered, you need to consider how this may be perceived by others. Hospitality must not be accepted from any parties concerned in a contract during the tendering period.

12.6 When considering offers of hospitality you should consider whether:

- the invitation comes from an organisation likely to benefit from the Council
- the organisation is seeking a contract with the Council, or already has a contract with the Council
- the hospitality is part of a conference, seminar etc. or is more of a social function
- the scale and location of the hospitality is relative to the event
- the event takes place outside normal working hours
- it is being offered on a frequent basis
- it is being offered just to you or to others as well.

12.7 All offers of hospitality, whether or not accepted, are to be recorded in the register of gifts and hospitality as follows:

(a) You do not need to record any hospitality which is an integral part of a conference or seminar and is being offered to all delegates.

(b) Otherwise, if the hospitality is

- (i) of a nominal value of £25 or less, you have a discretion as to whether or not to record the hospitality. It is suggested that you should record it unless it falls within the three acceptable categories mentioned at paragraph 12.8 below;
- (ii) of a nominal value of more than £25 you must record it.

After consideration, you may wish to decline the hospitality. You may refer to this Code when you decline hospitality, and you should record in the register what was offered and refused by you. If the individual or organisation later comes under investigation, it will be important to know all the offers that were made, not just those accepted.

Note 1: If your department or team has special rules about accepting / refusing hospitality, you must also comply with those rules.

Note 2: The form on which gifts and hospitality should be registered can be found on the Council's intranet.

12.8 Below are some broad guidelines on what is generally acceptable and unacceptable.

#### **Acceptable**

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

- attendance in an official capacity at functions arranged by local public service bodies and other public authorities.

### **Unacceptable**

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

## **13. Sponsorship, giving or receiving**

- 13.1 When an outside organisation wishes to sponsor activity, or is being asked to sponsor a Council activity, the basic conventions covering acceptance of gifts or hospitality apply. You must take particular care when dealing with suppliers or contractors or potential suppliers or contractors.
- 13.2 Where the Council wishes to sponsor an event or activity, then you, your partner, spouse or relative must not directly benefit from this sponsorship. If you think you may have some benefit from sponsorship, you must advise your manager before the sponsorship is agreed. This could protect you from potential allegations of favouritism or bias. Similarly, where the Council (through sponsorship, grant aid, financial or other means) gives support in the community, you must make sure that you give impartial advice and that there is no conflict of interest involved.

## **14. Information and openness**

- 14.1 Brighton & Hove City Council wants to ensure that it operates openly: this means that information should generally be available to the public. You should be aware that types of information which must remain confidential (even after you or the person concerned has left employment with the Council) include:
- personal information given in confidence
  - information that might compromise the right of commercial confidentiality
  - information that if disclosed might prejudice enforcement action
  - information that the Authority is not allowed or required by law to disclose (e.g. under data protection legislation)
  - information relating to the prevention, investigation or prosecution of a crime
  - information that is defamatory
  - requests for information that are unreasonable because of its volume or complexity.



- 14.2 You should never pass on information, confidential or otherwise, for personal or financial benefit.
- 14.3 You should be clear about the scope of information to which you have access and the constraints and freedoms applicable.

#### **15. Use of financial resources / financial regulations**

- 15.1 You must make sure that you use the public funds for which you are responsible in a responsible and lawful manner and in accordance with the Council's Contract Standing Orders, Financial Regulations and Anti-fraud and Corruption Policies. If you feel there is evidence of financial impropriety, fraud or corruption you should contact the Head of Audit & Business Risk immediately.

#### **16. The role of the Monitoring Officer**

- 16.1 The Monitoring Officer is responsible for making sure that Councillors and officers act with propriety and within the law. He/she has a statutory responsibility to produce a report to full Council in the event of any possible illegality, maladministration or injustice coming to his / her attention. The Monitoring Officer in Brighton & Hove City Council is the Head of Legal & Democratic Services .

#### **17. Raising concerns**

- 17.1 The Council takes any malpractice seriously and is committed to taking action when such practices are drawn to its attention. Examples of malpractice include bribery, fraud, corruption, gross negligence, risks to public safety or where capability is impaired by alcohol or drugs. There may be occasions when such practices are hidden or covered up and need to be drawn to the attention of the Council.
- 17.2 To make it easier for you to raise your concerns the Council has a procedure which allows you to raise your concern confidentially and, if necessary, outside your department. This is the Whistleblowing Policy and you can find this on the Council's intranet.
- 17.3 If you feel that you cannot raise your concerns within the Council, then you can contact the charity Public Concern at Work (Tel. 020 404 6609), which is a registered charity independent of Brighton & Hove City Council whose services are free and strictly confidential.

#### **18. Responding to complaints**

- 18.1 Brighton & Hove City Council is committed to being open with its service users and to treating their complaints fairly. Information about the Council's complaints procedures is included in the Council's series of leaflets "Complaints, compliments, comments and suggestions"

which are available at main Council reception points or from the Council's Standards and Complaints Team. This Team can also give you guidance on how to handle complaints.

### **Useful information / who's who**

Whistleblowing Policy - available from the Head of Human Resources & Organisational Development or Internal Audit

Equalities & Inclusion Policy - available from the Head of Human Resources & Organisational Development

Anti-fraud and Corruption Strategy - available from Internal Audit

Contract Standing Orders - available from Head of Procurement

Code of Conduct for Member–Officer Relations – available from the Head of Legal & Democratic Services

Code of Conduct for Members – available from the Head of Legal & Democratic Services

All these documents are also available on the Wave. Search for **constitution** in the **Library** and click open **Constitution – all documents**

Director of Finance - Tel. 29 - 7329

Head of Legal & Democratic Services – Tel 29 – 1500

Internal Audit (Head of Audit & Business Risk) - Tel. 29 - 1323

Head of Human Resources & Organisational Development - Tel. 29 - 1290

Head of Health and Safety - Tel. 29 – 1305

Head of Strategy Finance & Procurement – Tel. 29 – 1240

**PART 8.8 – PROTOCOL FOR PUBLIC QUESTIONS AT COMMITTEES AND SUB-COMMITTEES OF BRIGHTON AND HOVE CITY COUNCIL**

1. A period of not more than fifteen minutes shall be allowed at each ordinary meeting of any Committee or Sub-Committee (see note 1 below), but not any Joint Committee, for questions submitted by any member of the public who either lives or works in the area of the authority.
2. References below to “Committee” include “Sub-Committee” (see note 1 below).
3. A list of the questions of which notice has been given shall be circulated to Members of the relevant Committee at, or before, the meeting at which they are to be asked.
4. A public question shall be put at a meeting of the relevant Committee provided that:-
  - (a) a copy of the question has been delivered to the office of the Chief Executive by not later than 12 noon on the fifth working day prior to the day of the Committee meeting at which it is to be asked;
  - (b) the name and address of the questioner is indicated on the question;
  - (c) the questioner is present at the time when the question is put.
5. A question shall not exceed 100 words in length. The Chief Executive, after consultation with the questioner, may summarise a question to comply with this requirement.
6. The Head of Democratic Services may reject a question (see also notes 2 & 3 below) if it:
  - (a) is not about a matter for which the Committee to which it is addressed has any responsibility;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of any Committee or Council in the past six months; or
  - (d) requires the disclosure of confidential or exempt information.
7. The questioner may not put the same or substantially the same question which is taken at a Committee meeting to a Council meeting.

8. If the Chair considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of a Committee although due notice of the question has not been given, and if the Chair is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.
  9. Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.
  10. Any question shall be notified to the relevant Member of the Committee as determined by the Chair and shall be put to such Member (see note 4 below) at the Committee meeting by the questioner.
  11. The question will be answered without discussion. The questioner may ask one relevant supplementary question which shall be put and answered without discussion. The Member to whom a question, or supplementary question, has been put may decline to answer it. (See notes 2 & 3 below.)
  12. An answer may take the form of:-
    - (a) a direct oral answer; or
    - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
    - (c) where the reply to the question cannot conveniently be given orally, a written answer given to the member of the public submitting the question and circulated to the Committee.
  13. No questioner may submit more than one question for answer at the same meeting.
  14. Any question properly submitted but not dealt with at the relevant Committee meeting shall be answered in writing to the questioner as soon as reasonably practicable after the meeting.
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**Notes:**

1. Public questions are not permitted under this Protocol at meetings of the Licensing Panel or the Standards Panel.
2. There is a separate, but similar, procedure in the Council's Procedure Rules for public questions to meetings of the full Council.

3. It will not normally be appropriate for a Chair to answer questions under this Protocol about:-
  - (a) matters which are subject to quasi-judicial processes such as particular applications for planning permission, licences, registration, consents or other permissions, or
  - (b) matters for which there are other processes under the Council's Constitution, such as individual complaints or cases, personnel or disciplinary matters, ethical matters or allegations of fraud.
4. There is a separate Protocol under which it may be possible to make representations about particular applications for planning permission. This is the "Protocol for Public Representations at Planning Committee" in Part 8 of the Council's Constitution.
5. Questions will usually be answered by the Chair or Deputy Chair or person presiding at the meeting.

QUERIES ABOUT THIS PROTOCOL?  
Please contact the Head of Democratic Services  
Phone number 01273-291006

## PART 8.10 PETITIONS SCHEME

### How to petition the council – Petitions Scheme

#### Petitions

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. You can send us a paper petition and/or set up an e-petition online.

#### How to submit a petition

Petitions submitted to the council must include -

- a clear and concise statement covering the subject of the petition;
- what action the petitioners wish the council to take;
- the name, address and contact details of the petition organiser so that we can contact them to explain how we will respond to the petition;\*
- the name, address and signature of any person supporting the petition.

Petitions can be signed by any person of any age who lives, works or studies in Brighton & Hove or who uses services provided by Brighton & Hove City Council.

Petitions must relate to what the council does or relate to an improvement in the economic, social or environmental well-being of the area covered by Brighton & Hove City Council to which any of our partner authorities<sup>1</sup> could contribute.

\* The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

#### Where to send a petition

**Paper** petitions should be sent to Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS at least 10 days before the meeting at which you would like the petition to be presented. (For full Democratic Services contact details see end of this scheme.)

**E-petitions** - follow this link to create, sign and submit an e-petition<sup>2</sup>.

#### What the council will do when it receives a petition

The council will send an **acknowledgement** of all petitions to the petition organiser **within 10 working days** of receipt. This acknowledgement will set out what we plan to do with the petition and when they can expect to hear

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<sup>1</sup> See page 7 of this document for details

<sup>2</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

from us again. The petition will also be published on our website. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed).

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Once submitted, the petition organiser will be offered the choice as to whether they wish the petition to be:-

- i) presented at the next full council meeting to decide how we will respond; or
- ii) referred directly to the appropriate committee or sub-committee of the council to decide how we will respond; or
- iii) responded to by the relevant officer of the council.

If the petition organiser wishes to refer the petition to a full council meeting or directly to the relevant decision-making meeting, they will be invited to attend the meeting and will be offered the opportunity to either present the petition themselves or for a councillor or someone else to present it on their behalf. Dates and times of all council meetings can be found here<sup>3</sup>.

If the petition organiser would like to present their petition to the council, or would like their councillor or someone else to present it on their behalf, they need to contact Democratic Services on 01273 291006 at least 10 working days before the meeting and we will talk you through the process.

If the petition organiser prefers to receive a response from the relevant officer without the petition being presented at a meeting, a response will be sent to them within 21 working days of the closure of the petition and will be posted on the council's website.

### **Full council debates**

If a petition contains more than 1,250 signatures and is **not** a petition requesting officer evidence<sup>4</sup>, it will be debated by the full council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend before a decision is made about how we will respond.

The council will try to consider the petition at its next meeting. This may not always be possible and the petition will then be considered at the next meeting.

The petition organiser will be given 3 minutes to present the petition at the meeting. The petition will then be discussed by councillors for a maximum of 15 minutes. They will then decide how to respond to it at this meeting. Councillors may decide -

- to take the action the petition requests;
- not to take the action requested for reasons put forward in the debate; or

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<sup>3</sup> <http://present.brighton-hove.gov.uk/ieListMeetings.aspx?XXR=0&Year=2012&CId=117>

<sup>4</sup> See page 3 of this document

- to commission further investigation into the matter, for example by a relevant committee.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

### **Officer evidence**

A petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If a petition contains at least 750 signatures, the relevant senior officer<sup>5</sup> will give evidence at a public meeting of an overview and scrutiny committee of the council.

The overview and scrutiny committee<sup>6</sup> may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call a relevant councillor to attend the meeting. Committee members will ask the questions at this meeting. However, the petition organiser will be able to suggest questions to the chair of the committee by contacting the Head of Scrutiny up to three working days before the meeting. For all overview & scrutiny committees please email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk) or call the Head of Scrutiny on 01273-291110. The overview and scrutiny meeting does not have the power to make or change decisions but may make a report or recommendations to the relevant decision making meeting. A copy of the overview and scrutiny report or recommendations will be sent to the petition organiser and published on our website.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell the petition organiser when and where the meeting will take place. If the petition needs more investigation, we will tell them the steps we plan to take.

### **Exceptions**

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here - Influence council decisions – make your voice heard<sup>7</sup>

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<sup>5</sup> See page 7 of this document: 'Who can be called to account?'

<sup>6</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1187479>

<sup>7</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1211337>



We will not take action on any petition which is considered by the council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition. In the period immediately before an election or referendum we may need to deal with a petition differently – if this is the case we will discuss with the petition organiser the revised timescale which will apply.

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, we will write to the petition organiser to explain the reasons. To ensure that people know what we are doing in response to the petitions we receive, we will publish the details of all the petitions submitted to us on our website. However, there may be cases where this would be inappropriate.

### **How the council will respond to a petition**

The council's response to a petition will depend on what it asks for and how many people have signed it. Among the options that we may consider are -

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by an overview and scrutiny committee of the council;\*
- calling a referendum;
- writing to the petition organiser setting out our views about the request in the petition.

\* Overview and scrutiny committees are committees of councillors who are responsible for looking at the work of the council and have the power to hold the council's decision makers to account.

If a petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners<sup>8</sup> and where possible will work with these partners to respond to a petition.

If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will tell the petition organiser the reasons for this.

Find more information on the services for which the council is responsible<sup>9</sup>.

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<sup>8</sup> <http://www.bandhsp.co.uk/>

<sup>9</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=a8>

If a petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. This might mean simply forwarding the petition to the other council, but could involve other steps. We will always notify the petition organiser of the action we have taken.

## **E-petitions**

The council welcomes e-petitions<sup>10</sup> which are created and submitted through our website. E-petitions must follow the same guidelines<sup>11</sup> as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. They will also need to decide how long they would like their petition to be open for signatures. Most petitions run for 4 months, but they can choose a shorter or longer time, up to a maximum of 6 months.

When creating an e-petition, it may take five working days before it is published online. This is because we have to check that the content of a petition is suitable before it is made available for signature.

If we feel we cannot publish a petition for some reason, we will contact the petition organiser within this time to explain. They will be able to change and resubmit their petition if they wish. If they do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the council's website.

When an e-petition has closed for signature, it will automatically be submitted to the council. In the same way as a paper petition, we will send the petition organiser acknowledgement of receipt within 10 working days confirming what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website. If the petition organiser would like to present their e-petition to a meeting of the council, or would like a councillor to present it, they should contact the council's Democratic Services team on 01273-291006 at least 10 working days before the meeting to find out more about the process.

## **Frequently Asked Questions**

### **How do I start an e-petition?**

On the e-petitions homepage<sup>12</sup>, select the 'submit a new e-petition' option.

Enter your petition title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently.

There is also a drop down box which allows you to associate your e-petition with any existing issue in the council's Committee Work Programme. The

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<sup>10</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

<sup>11</sup> See page 1 of this document

<sup>12</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

Committee Work Programme details all of the key decisions to be taken by the council in the coming months.

You will then need to fill in the online form. This will be submitted to the council's Democratic Services team who may contact you to discuss your e-petition before it goes live.

### **How do I 'sign' an e-petition?**

You can see all the e-petitions currently available for signature on the current email petitions<sup>13</sup> page of our website.

- You can only sign an e-petition once.
- When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address.
- When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.
- People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
- From time to time, the council may also submit an e-petition itself to gauge public feeling on a particular issue.

### **Can I still submit a paper petition?**

You can submit petitions in both forms – you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.

### **What can I do if I feel my petition has not been dealt with properly?**

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the adequacy of the steps that the council has taken in response to your petition.

It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

Your requests for review should be sent to the Head of Scrutiny, Kings House, Grand Avenue, Hove, East Sussex BN3 2LS or by email to [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk)

The committee will try to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place

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<sup>13</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

at the following meeting. Should the committee decide we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include setting up an investigation, making recommendations to the relevant council committee, sub-committee or officer and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website

### **Who are the council's partner authorities?**

For the purpose of this scheme, each of the following is a partner authority:-

- East Sussex Fire and Rescue Service (East Sussex Fire Authority);
- South Downs National Park Authority;
- East Sussex Police;
- a chief officer of police;
- a joint waste authority;
- The South East England Development Agency (SEEDA);
- National Health Services for Brighton & Hove;
- Surrey and Sussex Probation Trust;
- South Downs National Health Service Trust;
- the Arts Council of England;
- the English Sports Council;
- the Environment Agency;
- the Health and Safety Executive;
- the Historic Buildings and Monuments Commission;
- the Learning and Skills Council for England;
- the Museums, Libraries and Archives Council;
- Natural England;
- the Secretary of State, in relation to functions which he carries out —
  - for securing local employment under section 2 of the Employment and Training Act 1973; and
  - as highway and traffic authority for trunk roads (such as the A27 Brighton bypass) and special roads.

### **Who can be called to account?**

The senior officers who may be called to give evidence in response to a petition are -

- Chief Executive;
- Strategic Director of Resources;
- Strategic Director of People;
- Strategic Director Place;
- Strategic Director of Communities;
- Director of Finance; and
- (if not one of the above) the officers appointed as Directors of adult social services and of children's services

## Help and advice

If you need any help or advice about petitions, please contact Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS, phone 01273-291006, e-mail [mark.wall@brighton-hove.gov.uk](mailto:mark.wall@brighton-hove.gov.uk)

## Alternative formats and languages

If you would like this information published by Brighton & Hove Council in large print, braille, audio tape, in pictures and symbols, or in a community language please call Democratic Services on 01273 291006.

### Translation? Tick this box and take to any council office.

ترجمة؟ ضع علامة في المربع وخذها إلى مكتب البلدية. Arabic

অনুবাদ? বক্সে টিক চিহ্ন দিয়ে কাউন্সিল অফিসে নিয়ে যান। Bengali

需要翻譯? 請在這方格內加剔, 並送回任何市議會的辦事處。Cantonese

ترجمه؟ لطفاً این مربع را علامتگذاری نموده و آن را به هر یک از دفاتر شهرداری ارائه نمایید. Farsi

Traduction? Veuillez cocher la case et apporter au council. French

需要翻译? 请在这方格内划勾, 并送回任何市议会的办事处。Mandarin

Tłumaczenie? Zaznacz to okienko i zwróć do któregokolwiek biura samorządu lokalnego (council office). Polish

Tradução? Coloque um visto na quadrícula e leve a uma qualquer repartição de poder local (council office). Portuguese

Tercümesi için kareyi işaretleyiniz ve bir semt belediye burosuna veriniz Turkish

other (please state)

**This can also be made available in large print, Braille, or on CD or audio tape**

## **PART 9.11 CODE OF CORPORATE GOVERNANCE**

### **Introduction**

Corporate governance is about how the Council directs and controls what it does. Good corporate governance requires the Council to carry out its functions in a way that demonstrates accountability, transparency, effectiveness, integrity and inclusivity. It also includes how the Council relates to the communities that it serves.

The Council is committed to being at the forefront of those local authorities that are able to demonstrate that they have the necessary corporate governance to excel in the public sector. The Code is a statement that sets out the way the Council will meet that commitment.

The Corporate Governance framework consists of six core principles and the following sets out the actions taken by the Council in relation to each core principle.

#### **Principle 1: The Council will focus on its purpose, on outcomes for the community and creating and implementing a vision for the local area.**

The Council will do this by:

- Exercising strategic leadership by developing and clearly communicating its purpose and vision and its intended outcomes for the City's citizens, partners and service users.
- Developing and promoting its purpose and vision.
- Reviewing on a regular basis its vision for the local area and its implications for governance arrangements.
- Ensuring service users receive a high quality of service whether directly, in partnership, or by commissioning.
- There is effective performance management and mechanisms for driving improvement.
- Making best use of its resources so that the taxpayers and service users receive excellent value for money.
- Considering the environmental impact of policies, plans and decisions.
- Reducing inequalities by increasing opportunities throughout the city.

**Principle 2: The Council's Members and officers will work together to achieve a common purpose with clearly defined functions and roles.**

The Council will do this by:

- Ensuring effective leadership throughout and being clear about Committee and Sub-Committee functions and of the roles and responsibilities of the scrutiny function.
- Ensuring that a constructive working relationship exists between its Members and officers. The role and responsibilities of Members and officers will be clearly set out and carried out to a high standard.
- Ensuring relationships between the Council, its partners and the public are clear so that each knows what to expect of the other.
- Ensuring its values are promoted and effective for Brighton & Hove stakeholders and partners.

**Principle 3: The Council will promote its values and demonstrate the value of good governance through upholding high standards of conduct and behaviour.**

The Council will do this by:

- Ensuring its Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance in order to create a climate of openness, support and respect.
- Ensuring its leadership sets a tone for the authority by creating a climate of openness, support and respect.

**Principle 4: The Council will take informed and transparent decisions that promote value for money and are subject to effective scrutiny and managing risk.**

The Council will do this by:

- Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny
- Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- Ensuring that an effective risk management system is in place, with Members and officers at all levels recognising that risk management is part of their job.

- Using its legal powers to the full benefit of the citizens and communities in its area to meet specific legislative requirements and general responsibilities required by general law and are within the limits of lawful activity.

**Principle 5: The Council will develop the capacity and capability of Members and officers to be effective.**

The Council will do this by:

- Making sure that Members and officers have the skills, knowledge, experience and resources they need to perform well in their roles.
- Developing the capability of people with governance responsibilities and evaluate their performance, as individuals and as a group.
- Encouraging the local community to be active participants in the democratic process through the provision of information and accessible systems and procedures.

**Principle 6: The Council will engage with local people and other stakeholders to ensure robust public accountability.**

The Council will do this by:

- Exercising leadership which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.
- Taking an active and planned approach to dialogues with and accountability to the public to ensure effective and appropriate service delivery whether directly, in partnership or by commissioning.
- Making best use of human resources by taking an active and planned approach to meet responsibilities to its staff



**Code of Corporate Governance – Evidence**

<b>CORPORATE GOVERNANCE FRAMEWORK</b>		
<b>Corporate Governance comprises the systems and processes, cultures and values, by which the Council is directed and controlled and through which it accounts to, engages with and where appropriate, leads the community</b>		
1. The Council will focus on its purpose, on outcomes for the community and creating and implementing a vision for the local area.	2. The Council's Members and officers will work together to achieve a common purpose with clearly defined functions and roles.	3. The Council will promote its values and demonstrate the value of good governance through upholding high standards of conduct and behaviour.
4. The Council will take informed and transparent decisions that promote value for money and are subject to effective scrutiny and managing risk.	5. The Council will develop the capacity and capability of Members and officers to be effective.	6. The Council will engage with local people and other stakeholders to ensure robust public accountability.

<b>(A) Key Documents: Regular/Annual Review or Production</b>	<b>(B) Key Documents: Ad hoc Review or Production</b>
<ul style="list-style-type: none"> <li>▪ Community Strategy</li> <li>▪ Medium Term Financial Strategy</li> <li>▪ Directorate Plans</li> <li>▪ Service Business Plans</li> <li>▪ Corporate Risk Register</li> <li>▪ External Audit Annual Governance Report</li> <li>▪ TBM Budget Monitoring Reports</li> <li>▪ Annual Internal Audit Report</li> <li>▪ Statement of Accounts</li> </ul>	<ul style="list-style-type: none"> <li>▪ Constitution including Standing Orders</li> <li>▪ Communications Strategy</li> <li>▪ Financial Procedures</li> <li>▪ Workforce Strategy</li> <li>▪ Freedom of Information Publication Scheme</li> <li>▪ Health and Safety Policy</li> <li>▪ ICT Strategy</li> <li>▪ Risk and Opportunity Management Strategy</li> <li>▪ Members Code of Conduct</li> <li>▪ Officers Code of Conduct</li> <li>▪ Partnership Working Guidelines</li> </ul>

<b>(C) Contributory Processes / Regulatory Monitoring</b>	
<ul style="list-style-type: none"> <li>▪ Audit Committees</li> <li>▪ Standards Committees</li> <li>▪ Overview and Scrutiny Committee(s)</li> <li>▪ Independent Remuneration Panel for Members Allowances</li> <li>▪ Officers Governance Board</li> <li>▪ Risk Management Steering Group</li> <li>▪ Section 151 Officer</li> <li>▪ Head of Paid Service</li> <li>▪ Customer complaints process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Job Evaluation Process</li> <li>▪ Employee Induction</li> <li>▪ Employee Surveys</li> <li>▪ PDPS Scheme</li> <li>▪ Health &amp; Safety</li> <li>▪ Internal Audit</li> <li>▪ External Audit</li> <li>▪ Gifts &amp; Hospitality Registers</li> <li>▪ Annual Review of Internal Audit</li> <li>▪ Business Continuity</li> <li>▪ Investors in People</li> </ul>

<ul style="list-style-type: none"> <li>▪ Published Agendas, Reports and Minutes of Committees</li> <li>▪ Codes of Conduct</li> <li>▪ Whistleblowing Policy</li> <li>▪ Counter Fraud Strategy</li> <li>▪ Equality &amp; Diversity Policy</li> </ul>	
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	<ul style="list-style-type: none"> <li>▪ The Management Team</li> <li>▪ Value for Money Steering Group</li> <li>▪ Budget consultation</li> <li>▪ Job Descriptions and Person Specifications</li> </ul>
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## **Review of Corporate Governance Arrangements**

The Council will conduct an annual review of its corporate governance arrangements, in particular against the six core principles. The purpose of the annual review will be to provide assurance from a number of sources that corporate governance arrangements are adequate and operating effectively. Where appropriate, actions will be agreed for improvements.

The outcome of the annual review of corporate governance arrangement will be published in the Annual Governance Statement.

## **PART 8.10 - PETITIONS SCHEME**

### **How to petition the council – Petitions Scheme**

#### **Petitions**

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. You can send us a paper petition and/or set up an e-petition online.

#### **How to submit a petition**

Petitions submitted to the council must include -

- a clear and concise statement covering the subject of the petition;
- what action the petitioners wish the council to take;
- the name, address and contact details of the petition organiser so that we can contact them to explain how we will respond to the petition;\*
- the name, address and signature of any person supporting the petition.

Petitions can be signed by any person of any age who lives, works or studies in Brighton & Hove or who uses services provided by Brighton & Hove City Council.

Petitions must relate to what the council does or relate to an improvement in the economic, social or environmental well-being of the area covered by Brighton & Hove City Council to which any of our partner authorities<sup>14</sup> could contribute.

\* The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

#### **Where to send a petition**

**Paper** petitions should be sent to Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS at least 10 days before the meeting at which you would like the petition to be presented. (For full Democratic Services contact details see end of this scheme.)

**E-petitions** - follow this link to create, sign and submit an e-petition<sup>15</sup>.

#### **What the council will do when it receives a petition**

The council will send an **acknowledgement** of all petitions to the petition organiser **within 10 working days** of receipt. This acknowledgement will set out what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed).

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<sup>14</sup> See page 7 of this document for details

<sup>15</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Once submitted, the petition organiser will be offered the choice as to whether they wish the petition to be:-

- i) presented at the next full council meeting to decide how we will respond; or
- ii) referred directly to the appropriate committee or sub-committee of the council to decide how we will respond; or
- iii) responded to by the relevant officer of the council.

If the petition organiser wishes to refer the petition to a full council meeting or directly to the relevant decision-making meeting, they will be invited to attend the meeting and will be offered the opportunity to either present the petition themselves or for a councillor or someone else to present it on their behalf. Dates and times of all council meetings can be found here<sup>16</sup>.

If the petition organiser would like to present their petition to the council, or would like their councillor or someone else to present it on their behalf, they need to contact Democratic Services on 01273 291006 at least 10 working days before the meeting and we will talk you through the process.

If the petition organiser prefers to receive a response from the relevant officer without the petition being presented at a meeting, a response will be sent to them within 21 working days of the closure of the petition and will be posted on the council's website.

### **Full council debates**

If a petition contains more than 1,250 signatures and is **not** a petition requesting officer evidence<sup>17</sup>, it will be debated by the full council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend before a decision is made about how we will respond.

The council will try to consider the petition at its next meeting. This may not always be possible and the petition will then be considered at the next meeting.

The petition organiser will be given 3 minutes to present the petition at the meeting. The petition will then be discussed by councillors for a maximum of 15 minutes. They will then decide how to respond to it at this meeting. Councillors may decide -

- to take the action the petition requests;
- not to take the action requested for reasons put forward in the debate; or
- to commission further investigation into the matter, for example by a relevant committee.

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<sup>16</sup> <http://present.brighton-hove.gov.uk/ieListMeetings.aspx?XXR=0&Year=2012&CId=117>

<sup>17</sup> See page 3 of this document

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

### **Officer evidence**

A petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If a petition contains at least 750 signatures, the relevant senior officer<sup>18</sup> will give evidence at a public meeting of an overview and scrutiny committee of the council.

The overview and scrutiny committee<sup>19</sup> may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call a relevant councillor to attend the meeting. Committee members will ask the questions at this meeting. However, the petition organiser will be able to suggest questions to the chair of the committee by contacting the Head of Scrutiny up to three working days before the meeting. For all overview & scrutiny committees please email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk) or call the Head of Scrutiny on 01273-291110. The overview and scrutiny meeting does not have the power to make or change decisions but may make a report or recommendations to the relevant decision making meeting. A copy of the overview and scrutiny report or recommendations will be sent to the petition organiser and published on our website.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell the petition organiser when and where the meeting will take place. If the petition needs more investigation, we will tell them the steps we plan to take.

### **Exceptions**

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here - Influence council decisions – make your voice heard<sup>20</sup>

We will not take action on any petition which is considered by the council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition. In the period immediately before an election or referendum we may need to deal with a

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<sup>18</sup> See page 7 of this document: 'Who can be called to account?'

<sup>19</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1187479>

<sup>20</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1211337>

petition differently – if this is the case we will discuss with the petition organiser the revised timescale which will apply.

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, we will write to the petition organiser to explain the reasons. To ensure that people know what we are doing in response to the petitions we receive, we will publish the details of all the petitions submitted to us on our website. However, there may be cases where this would be inappropriate.

### **How the council will respond to a petition**

The council's response to a petition will depend on what it asks for and how many people have signed it. Among the options that we may consider are -

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by an overview and scrutiny committee of the council;\*
- calling a referendum;
- writing to the petition organiser setting out our views about the request in the petition.

\* Overview and scrutiny committees are committees of councillors who are responsible for looking at the work of the council and have the power to hold the council's decision makers to account.

If a petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners<sup>21</sup> and where possible will work with these partners to respond to a petition.

If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will tell the petition organiser the reasons for this.

Find more information on the services for which the council is responsible<sup>22</sup>.

If a petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. This might mean simply forwarding the petition to the other council, but could involve other steps. We will always notify the petition organiser of the action we have taken.

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<sup>21</sup> <http://www.bandhsp.co.uk/>

<sup>22</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=a8>

## **E-petitions**

The council welcomes e-petitions<sup>23</sup> which are created and submitted through our website. E-petitions must follow the same guidelines<sup>24</sup> as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. They will also need to decide how long they would like their petition to be open for signatures. Most petitions run for 4 months, but they can choose a shorter or longer time, up to a maximum of 6 months.

When creating an e-petition, it may take five working days before it is published online. This is because we have to check that the content of a petition is suitable before it is made available for signature.

If we feel we cannot publish a petition for some reason, we will contact the petition organiser within this time to explain. They will be able to change and resubmit their petition if they wish. If they do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the council's website.

When an e-petition has closed for signature, it will automatically be submitted to the council. In the same way as a paper petition, we will send the petition organiser acknowledgement of receipt within 10 working days confirming what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website. If the petition organiser would like to present their e-petition to a meeting of the council, or would like a councillor to present it, they should contact the council's Democratic Services team on 01273-291006 at least 10 working days before the meeting to find out more about the process.

## **Frequently Asked Questions**

### **How do I start an e-petition?**

On the e-petitions homepage<sup>25</sup>, select the 'submit a new e-petition' option.

Enter your petition title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently.

There is also a drop down box which allows you to associate your e-petition with any existing issue in the council's Committee Work Programme. The Committee Work Programme details all of the key decisions to be taken by the council in the coming months.

You will then need to fill in the online form. This will be submitted to the council's Democratic Services team who may contact you to discuss your e-petition before it goes live.

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<sup>23</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

<sup>24</sup> See page 1 of this document

<sup>25</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>



### **How do I 'sign' an e-petition?**

You can see all the e-petitions currently available for signature on the current email petitions<sup>26</sup> page of our website.

- You can only sign an e-petition once.
- When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address.
- When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.
- People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
- From time to time, the council may also submit an e-petition itself to gauge public feeling on a particular issue.

### **Can I still submit a paper petition?**

You can submit petitions in both forms – you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.

### **What can I do if I feel my petition has not been dealt with properly?**

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the adequacy of the steps that the council has taken in response to your petition.

It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

Your requests for review should be sent to the Head of Scrutiny, Kings House, Grand Avenue, Hove, East Sussex BN3 2LS or by email to [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk)

The committee will try to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee decide we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include setting up an investigation, making recommendations to the relevant council committee, sub-committee or officer and arranging for the matter to be considered at a meeting of the full council.

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<sup>26</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website

### **Who are the council's partner authorities?**

For the purpose of this scheme, each of the following is a partner authority:-

- East Sussex Fire and Rescue Service (East Sussex Fire Authority);
- South Downs National Park Authority;
- East Sussex Police;
- a chief officer of police;
- a joint waste authority;
- The South East England Development Agency (SEEDA);
- National Health Services for Brighton & Hove;
- Surrey and Sussex Probation Trust;
- South Downs National Health Service Trust;
- the Arts Council of England;
- the English Sports Council;
- the Environment Agency;
- the Health and Safety Executive;
- the Historic Buildings and Monuments Commission;
- the Learning and Skills Council for England;
- the Museums, Libraries and Archives Council;
- Natural England;
- the Secretary of State, in relation to functions which he carries out —
  - for securing local employment under section 2 of the Employment and Training Act 1973; and
  - as highway and traffic authority for trunk roads (such as the A27 Brighton bypass) and special roads.

### **Who can be called to account?**

The senior officers who may be called to give evidence in response to a petition are -

- Chief Executive;
- Strategic Director of Resources;
- Strategic Director of People;
- Strategic Director Place;
- Strategic Director of Communities;
- Director of Finance; and
- (if not one of the above) the officers appointed as Directors of adult social services and of children's services

## Help and advice

If you need any help or advice about petitions, please contact Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS, phone 01273-291006, e-mail [mark.wall@brighton-hove.gov.uk](mailto:mark.wall@brighton-hove.gov.uk)

## Alternative formats and languages

If you would like this information published by Brighton & Hove Council in large print, braille, audio tape, in pictures and symbols, or in a community language please call Democratic Services on 01273 291006.

### Translation? Tick this box and take to any council office.

ترجمة؟ ضع علامة في المربع وخذها إلى مكتب البلدية.	Arabic	<input type="checkbox"/>
অনুবাদ? বক্সে টিক চিহ্ন দিয়ে কাউন্সিল অফিসে নিয়ে যান।	Bengali	<input type="checkbox"/>
需要翻譯? 請在這方格內加別, 並送回任何市議會的辦事處。	Cantonese	<input type="checkbox"/>
ترجمه؟ لطفاً این مربع را علامتگذاری نموده و آن را به هر یک از دفاتر شهرداری ارائه نمایید.	Farsi	<input type="checkbox"/>
Traduction? Veuillez cocher la case et apporter au council.	French	<input type="checkbox"/>
需要翻译? 请在这方格内划勾, 并送回任何市议会的办事处。	Mandarin	<input type="checkbox"/>
Tłumaczenie? Zaznacz to okienko i zwróć do któregoś z biura samorządu lokalnego (council office).	Polish	<input type="checkbox"/>
Tradução? Coloque um visto na quadrícula e leve a uma qualquer repartição de poder local (council office).	Portuguese	<input type="checkbox"/>
Tercümesi için kareyi işaretleyiniz ve bir semt belediye bürosuna veriniz	Turkish	<input type="checkbox"/>
	other (please state)	<input type="checkbox"/>

**This can also be made available in large print, Braille, or on CD or audio tape**

## **PART 9 – MEMBERS ALLOWANCES**

### **NOTE:-**

1. The current Members Allowances scheme can be seen on the Council's website.
2. The Council's Independent Remuneration Panel will be reconsidering the scheme in the light of the proposed new constitution. The Panel will make recommendations for any appropriate changes to the full Council in a separate report.
3. Accordingly, the report on the constitution to the Governance Committee on 20 March 2012 and Council on 26 April 2012 does not include the scheme in this set of constitutional documents.